



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

**LEGISLATIVE REPORT**

- SUBJECT:** Requesting the Board of Education (the “Board”) provide the Governor, Legislature and the public an annual report on the State’s public charter schools, drawing from the annual reports submitted by every authorizer as well as any additional relevant data compiled by the Board, for the school year ending in 2015. The annual report shall include:
- (1) The Board’s assessment of the successes, challenges, and areas for improvement in meeting the purposes of Hawaii Revised Statutes (“HRS”) Chapter 302D, including the Board’s assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State’s public charter schools;
  - (2) A line-item breakdown of all federal funds received by the Department of Education (the “Department”) and distributed to authorizers;
  - (3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools;
  - (4) A summary of the criteria used by the charter school facilities funding working group, established pursuant to HRS §302D-29.5, in allocating facilities funding;
  - (5) A detailed breakdown of the allocation of funding through general funds and bond funds;
  - (6) A detailed list of the projects funded by general funds and bond funds;
  - (7) The status of funding for projects previously awarded; and
  - (8) A discussion of all Board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools.
- REFERENCE:** HRS §302D-21
- ACTION REQUESTED:** Report to the 2016 Legislature.
- DOE REPORT:** This is the fourth annual report provided by the Board pursuant to Act 130, Session Laws of Hawaii (“SLH”) 2012, section 21, codified as HRS §302D-21 and subsequently amended by Act 159, SLH 2013, section 13; Act 99, SLH 2014, section 14; Act 114, SLH 2015, section 8; and Act 234, SLH 2015, section 3. The goal of Act 130, SLH 2012, is to strengthen the Hawaii charter school governance structure by establishing clear lines of authority that ensures accountability of the charter school system. A key aspect of HRS Chapter 302D is increased oversight and accountability of charter schools. Measures related to academic performance, financial performance and sustainability, and operational viability are a focus of the law.

The annual report required by HRS §302D-21 is designed to meaningfully assess and support the provisions of the law. The first report in 2012 provided a status report on the implementation of the new law that was ongoing at the time and certain key data points. The past two reports provided more information on meaningful comparative data and the status of the charter schools as well as an update on the implementation of the accountability measures in fulfilling the purpose of the law. This year's report continues that work and also provides new information related to charter school facilities funding and a status report on the implementation of Act 234, SLH 2015.<sup>1</sup>

## **FINDINGS**

(1) The Board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the Board's assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools.

As noted in last year's report, the State Public Charter School Commission (the "Commission") has accomplished much since its creation in 2012, and in 2014-2015, the Commission continued the work of implementing the charter school accountability system envisioned by HRS Chapter 302D. Contract year 2014-2015 marked the first year of the inaugural multiyear charter school performance contracts ("charter contracts"), which will be up for renewal or nonrenewal based on performance for the first time at the end of the 2016-2017 contract year. The Commission has been developing the process, application, criteria, and guidance for charter contract renewal. The Board looks forward to reviewing the implementation of the charter contract renewal process in the next two years.

Previous reports included information that compared the performance of charter school students with all public school students. However, as noted in last year's report, that has been discontinued because this information can be found in the Commission's report along with the cumulative and individual academic, organizational, and financial performance of all charter schools.<sup>2</sup>

Last year, the Commission reported it was improving its academic performance framework, which is one of three performance frameworks included in the charter contract, by incorporating school-specific measures for individual schools. These are optional measures that schools develop and propose and that the Commission reviews and uses to evaluate schools according to their individual mission and unique circumstances. However, it appears that these measures have had little impact thus far as the Commission has only approved the use of school-specific measures by two schools. The Commission reports one of its

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<sup>1</sup> Act 234, SLH 2015, section 1 states that the purpose of the Act is "to provide: (1) A framework for providing facilities funding and support for public charter school facilities with adequate prioritization, oversight, and accountability; and (2) Public charter schools and early learning programs that are affiliated with a public charter school with the opportunity to secure the use of additional state facilities deemed vacant and appropriate for use."

<sup>2</sup> The Commission's annual report is available on its website here: <http://www.chartercommission.hawaii.gov/#!reports/c1mkt>.

priorities for the 2015-2016 year is to examine the school-specific measures review process and explore ways to assist schools in developing high-quality measures. The Board looks forward to reviewing the progress and impact of these measures next year.

With regard to the sufficiency of funding, the Commission's assessment of the financial performance of charter schools based on the 2014-2015 results on its financial performance framework—another performance framework included in the charter contract—indicates that the charter schools' financial status remains relatively stable, suggesting sound stewardship of public funds (with the exception of one school discussed later). However, there continues to be reason for concern over the financial sustainability of the schools over time, and long-term financial stability is a concern that continues to be highlighted year after year. The Commission again reported that there is concern that the charter schools may not be on firm financial footing for the long term if current levels of available funding remain essentially flat in coming years and/or schools are unable to realize cost savings.

Related to financial performance, the Commission and the charter school system learned hard lessons in 2014-2015 when the Commission closed a charter school, Halau Lokahi Charter School ("Halau Lokahi"), for the first time. Even though it was unable to meet its financial obligations at the end of Fiscal Year 2014 due to financial mismanagement, the Commission offered Halau Lokahi a conditional charter contract that required the governing board and leadership of Halau Lokahi to resign and a new governing board be appointed by the Commission. This set in motion a series of governing board and leadership changes throughout the school year and various proposals from the school for financial restructuring until the Commission finally decided to revoke Halau Lokahi's charter contract mid-year. The Commission allowed the school to complete the school year, but it fell largely on the Commission to conduct the actual closure activities. In the end, many student records from the school were not complete, and it is not clear at this point in time whether there are any remaining financial obligations for which the State may be liable.

As noted in previous years' reports, there are always areas for improvement, and the Board is beginning to take a more active role in identifying those areas. A few members of the Board have recently been conducting listening tour sessions to hear the concerns of charter school governing board members, administrators, and staff, especially in regards to the Board's oversight duties of charter school authorizers and interest in the creation of another authorizer. Since these members are still gathering information, the Board has not yet deliberated or taken action on these topics, but it is looking forward to starting the process of carrying out the Board's responsibilities as they relate to charter schools.

A major and ongoing challenge is the lack of funding for charter school facilities. Act 234, SLH 2015, takes another step toward addressing this perennial problem, although no general funds have been appropriated or bonds authorized for charter school facilities to date. This report addresses the reporting requirements of Act 234, but to date there are no facilities funds for charter schools. The Board recommends that the Legislature provide some form of facilities funding to charter schools to address this unmet need.

(2) A line-item breakdown of all federal funds received by the Department and distributed to authorizers.

Please see attached, Exhibit A.

(3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools.

As noted in last year's report, the Commission again reported that there remains a perceived lack of transparency regarding the availability of certain federal funds. The Department-Commission-charter school working group that was also in place last year continues to update informational guidance and resources on special education in charter schools, and the group has discussed the process by which the special education positions and resources are allocated to all public schools. If appropriate, the working group will make recommendations for improving the process or for improving the transparency and understanding of that process. If this approach is successful for clarifying the special education program area, the Commission suggests using this approach as a model for clarifying other federal program areas.

In the meantime, the Board recommends that the Commission work with charter schools and the Department to identify other federal program areas where schools perceive a lack of transparency and require clarification. If the special education working group is successful in providing greater transparency and clarification, the Commission should initiate a similar approach for any other identified program areas.

(4) A summary of the criteria used by the charter school facilities funding working group, established pursuant to HRS §302D-29.5, in allocating facilities funding.

The Charter School Facilities Funding Working Group has not yet convened and therefore has not developed criteria to allocate facilities funding.

(5) A detailed breakdown of the allocation of funding through general funds and bond funds.

The Legislature has not yet appropriated general funds or issued bond authorization to charter schools for facilities.

(6) A detailed list of the projects funded by general funds and bond funds.

There are currently no charter school facilities projects being funded by general funds or bond funds.

(7) The status of funding for projects previously awarded.

No charter school facilities projects have been awarded general funds or bond funds.

(8) A discussion of all board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools.

In 2011 the Board formed the Policy Audit Permitted Interaction Group (the “Policy Audit Group”), a task force charged with auditing the Board’s policies. On November 18, 2014, the Policy Audit Group presented to the Board a report and policy matrix that reorganized the policies to align with the Board and Department’s joint strategic plan, created “ends policies” that describe the outcomes the Board is seeking for the educational system, identified policies that may not be needed, and identified areas where new policies might be considered.

Currently, the Board is working on its policies, although the Board has already approved a large number of policies since the Policy Audit Group’s report. A list of policies the Board has approved up through November 17, 2015 is attached as Exhibit B. The list also indicates whether or not each approved policy is applicable to charter schools. However, it is important to note that the Board has not completed revisions to its policies, and the Board may develop a policy specific to charter schools that will more accurately describe the applicability of Board policies to charter schools.<sup>3</sup>

**FUTURE ACTIONS** The Board believes that, while it experienced some painful lessons during this past year, the Commission continues to make significant progress toward developing and implementing a strong accountability system. The Board looks forward to the next year and the outcome of the Department-Commission-charter school special education working group and the progress on the school-specific measures. After the information gathering from charter schools is complete, the Board will consider what actions it will take, if any, on its authorizer oversight duties and begin the process of developing administrative rules to allow for multiple authorizers. Last but not least, the Board encourages the Legislature to provide facilities funding and to consider other supports for charter schools.

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<sup>3</sup> The Policy Audit Group’s report, a table showing the status of each of the Board’s policies, and links to the new policies are available on the Board’s website here: <http://www.hawaiiboe.net/Pages/pa2.aspx>.