



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

March 1, 2016

TO: Board of Education Student Achievement Committee

FROM: Jim Williams  
Student Achievement Committee Vice Chairperson, Board of  
Education

AGENDA ITEM: Committee Action on draft administrative rules for multiple charter  
school authorizers

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**I. BACKGROUND**

At its January 19, 2016 general business meeting, the Board of Education ("Board") directed its staff to draft administrative rules for multiple charter school authorizers, pursuant to Hawaii Revised Statutes ("HRS") §302D-4, entitled "Chartering authority application for eligible entities."<sup>1</sup>

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<sup>1</sup> HRS §302D-4 provides as follows:

"(a) The commission created under section 302D-3 may authorize public charter schools anywhere in the State.

(b) Governing boards of accredited public and private postsecondary institutions, including community colleges, technical colleges, and four-year universities may apply to the board, pursuant to this section, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.

(c) A county or state agency may apply to the board, pursuant to this section, for chartering authority.

(d) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the board, and may be granted statewide chartering authority. Nonpublic sectarian or religious organizations and any other charitable organization which in their federal Internal Revenue Service Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer under this chapter.

(e) The board shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to this section; provided that the board shall not approve any application for chartering authority until July 1, 2014, or until the board adopts rules, whichever is later. 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. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

(1) Written notification of intent to serve as an authorizer in accordance with this chapter;

(2) The applicant entity's strategic vision for chartering;

(3) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this chapter;

(4) A draft or preliminary outline of the request for proposals that the applicant entity, if approved as an authorizer, would issue to solicit public charter school applicants;

HRS §302D-4(e) provides, in pertinent part, “The [B]oard shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to this section; provided that the [B]oard shall not approve any application for chartering authority until July 1, 2014, or until the [B]oard adopts rules, whichever is later[.]”

Included in the development of a process to create multiple authorizers is also consideration of the transfer of oversight of a public charter school from one authorizer to another. These charter transfers are covered by HRS §302D-20, entitled “Charter transfers,” which provides:

“(a) Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the [B]oard by a public charter school or its authorizer. The [B]oard shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students.

(b) The [B]oard may adopt rules pursuant to chapter 91 to carry out the purposes of this section.”

Therefore, Board staff drafted two new proposed Hawaii Administrative Rules (“HAR”) chapters: HAR Chapter 8-515, entitled “Establishment and Oversight of Charter School Authorizers,” and HAR Chapter 8-517, entitled “Charter Contract Transfers.”

Subsequently, at its February 2, 2016 meeting, the Student Achievement Committee (“Committee”) approved the proposed draft of the administrative rules, as described in Executive Director Alison Kunishige’s February 2, 2016 memorandum to the Committee and including any recommended changes from the Department of the Attorney General (“AG”) and the Legislative Reference Bureau (“LRB”). The draft rules approved by the Committee with redlined suggestions from LRB are attached as **Exhibit A**. Comments from the AG were pending at the time this memorandum was drafted and may be provided at the Committee meeting, if available.

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(5) A draft of the performance framework that the applicant entity, if approved as an authorizer, would use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this chapter;

(6) A draft of the applicant entity's renewal, revocation, and nonrenewal processes, consistent with section 302D-18;

(7) A statement of assurance that the applicant entity seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as an authorizer, the entity will fully participate in any authorizer training provided or required by the State; and

(8) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures.

(f) By June 30 of each year, the board shall decide whether to grant or deny chartering authority to each applicant. The board shall make its decisions on the merits of each applicant's proposal and plans.

(g) Within sixty days of the board's decision, the board shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as an authorizer in accordance with the expectations of this chapter, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

(h) This section shall not apply to the commission.”

Additionally, at the recommendation of some Board members, the Committee informally requested that the draft administrative rules be circulated to charter school stakeholders and opened up for preliminary public comments prior to coming before the Board for approval for a public hearing. Board staff set an initial deadline of February 18, 2016 for preliminary comments but has continued compiling any comments on the draft rules received since the initial deadline, up to the morning of the Committee's March 1, 2016 meeting.

## II. PRELIMINARY PUBLIC COMMENTS

As of February 24, 2016, seventeen individuals or organizations submitted preliminary comments on the draft administrative rules. A digest of the comments by commenter is attached as **Exhibit B**. All comments in their entirety are attached as **Exhibit C**. The following is a brief digest of the comments by subject matter.

Two commenters—'Aha Pūnana Leo and the National Association of Charter School Authorizers ("NACSA")—request the following specific changes to sections within the draft administrative rules:

- NACSA requests that HAR §8-515-5 be amended to include evaluation criteria in the areas of organizational capacity, solicitation and evaluation of charter applications, performance contracting, ongoing charter school oversight and evaluation, and charter renewal and revocation processes.<sup>2</sup>
- 'Aha Pūnana Leo requests that HAR §8-515-10(a)(2) be amended to "[a]pply locally and nationally recognized principles and standards for quality charter authorizing in assessing performance" of authorizers (underlined text added).<sup>3</sup>
- NACSA requests that HAR §8-515-10 be amended to include actions that would result in a special review, including: persistently unsatisfactory performance of an authorizer's portfolio of charter schools; multiple complaints that are supported by sufficient facts alleging the authorizer is not in compliance with their charter contract or authorizer duties; failure of the authorizer or its charter schools to comply with applicable state or federal law or regulation; or other circumstances not listed.<sup>4</sup> NACSA also requests that the section include a written notification to the authorizer that a special review will occur and that the written report of the special review be sent to the authorizer and made public.
- NACSA requests that HAR §8-517-6 be amended so that a transfer from a terminated authorizer is not guaranteed and only allowed if the charter school and another authorizer mutually agree to contract terms.<sup>5</sup>

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<sup>2</sup> The Committee should note that HRS §302D-6 already requires that all authorizers "follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility, including: (1) Organizational capacity and infrastructure; (2) Soliciting and evaluating charter applications; (3) Performance contracting; (4) Ongoing public charter school oversight and evaluation; and (5) Charter and charter contract renewal decision-making."

<sup>3</sup> The Committee should note that HRS §302D-6 requires all authorizers to "follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility."

<sup>4</sup> The Committee should note that HRS §302D-11(c) currently allows the Board to conduct a special review triggered by "[p]ersistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances."

<sup>5</sup> The Committee should note that HRS §302D-11(e) requires the Board to "manage the timely and orderly transfer of each charter contract held by [an authorizer whose chartering authority is revoked] to another authorizer in the State, with the mutual agreement of each affected public charter school and proposed new authorizer."

Three commenters—the Hawaii Public Charter School Network, Kamehameha Schools, and the Office of Hawaiian Affairs—requested an additional 30 days to review the draft rules and provide preliminary comments. Board staff, at the direction of the Committee Chairperson and Vice Chairperson, subsequently informed these commenters that the Committee and Board would continue to accept preliminary comments at least until March 1, 2016.

At least three commenters suggest that the rules should honor Hawaii’s uniqueness provided through its State Constitution and not depend solely on national best practice. One commenter notes that there is a need for a Hawaiian language medium authorizer. Some commenters share concerns about references to “unsatisfactory performance” and argue that charter school performance should only be determined by assessments in the same language as the language medium of instruction.

One commenter supports the need for defining a clear purpose for charter schools but notes concern about the process for determining that purpose. The commenter cites the 1999 definition of charter schools in Hawaii, when charter schools were designated as “New Century” Public Charter Schools.

Other concerns include disallowing a charter school whose authorizer has initiated closure from securing a charter contract from another authorizer and the “spirit and intent” of the charter school law focusing on high academic achievement. One commenter notes that charter school operators do not want to “hop” to another authorizer to avoid accountability but are seeking increased accountability for authorizers. At least two commenters request that the public hearing process allow for meaningful participation from neighbor island residents.

The vast majority of commenters either support the draft rules outright or support the intent of the rules and the promulgation process. Many note the importance of having multiple charter school authorizers.

### III. RECOMMENDED PROCESS

While the Committee has already approved the draft administrative rules, the preliminary comments received thus far are substantial enough to warrant the review of the Committee before bringing the draft rules to the Board for approval. I recommend the Committee consider at least the specific proposed changes that have been submitted, as well as the comments from LRB and the AG, and determine whether the draft rules should be changed. I also recommend that the Committee withdraw its current recommendation to the Board to approve the previous draft rules and postpone making a recommendation to the Board until March 15, which will require a special Committee meeting, to allow the public more time to provide specific suggestions. I recommend setting the extended preliminary comment deadline to Wednesday, March 9, 2016.

If and when the Board considers and approves the draft rules, it will request from the Governor approval to hold a public hearing on the proposed rules. (Note: If the Board makes changes to the draft after AG review, the AG will need to review the new draft and approve it “as to form” before requesting a public hearing from the Governor.)

After gubernatorial approval, the Board, in accordance with HRS Chapter 91, will publish the notice and hold a public hearing. The Board will consider the comments from the public and hold a decision-making meeting at which it makes any necessary changes to the proposed rules and adopts them. The AG reviews and approves the adopted rules “as to form.”

However, if the AG determines substantial changes have been made to the rules, another public hearing will need to be held.

Upon AG approval “as to form,” the Board requests final approval of the rules from the Governor. The Governor approves and signs the rules and files copies with the Lieutenant Governor. The approved rules become effective ten days after being filed with the Lieutenant Governor.

#### IV. RECOMMENDATION

In addition to any decision the Committee makes regarding the specific comments from LRB and commenters, including ‘Aha Pūnana Leo and NACSA, I recommend the following motion to the Committee:

**“Moved to withdraw the February 2, 2016 Committee recommendation to the Board that it approve the draft of the proposed Hawaii Administrative Rules Chapters 8-515 and 8-517 and set a deadline of March 9, 2016 for preliminary comments from the public on the draft administrative rules.”**

**Exhibit A**

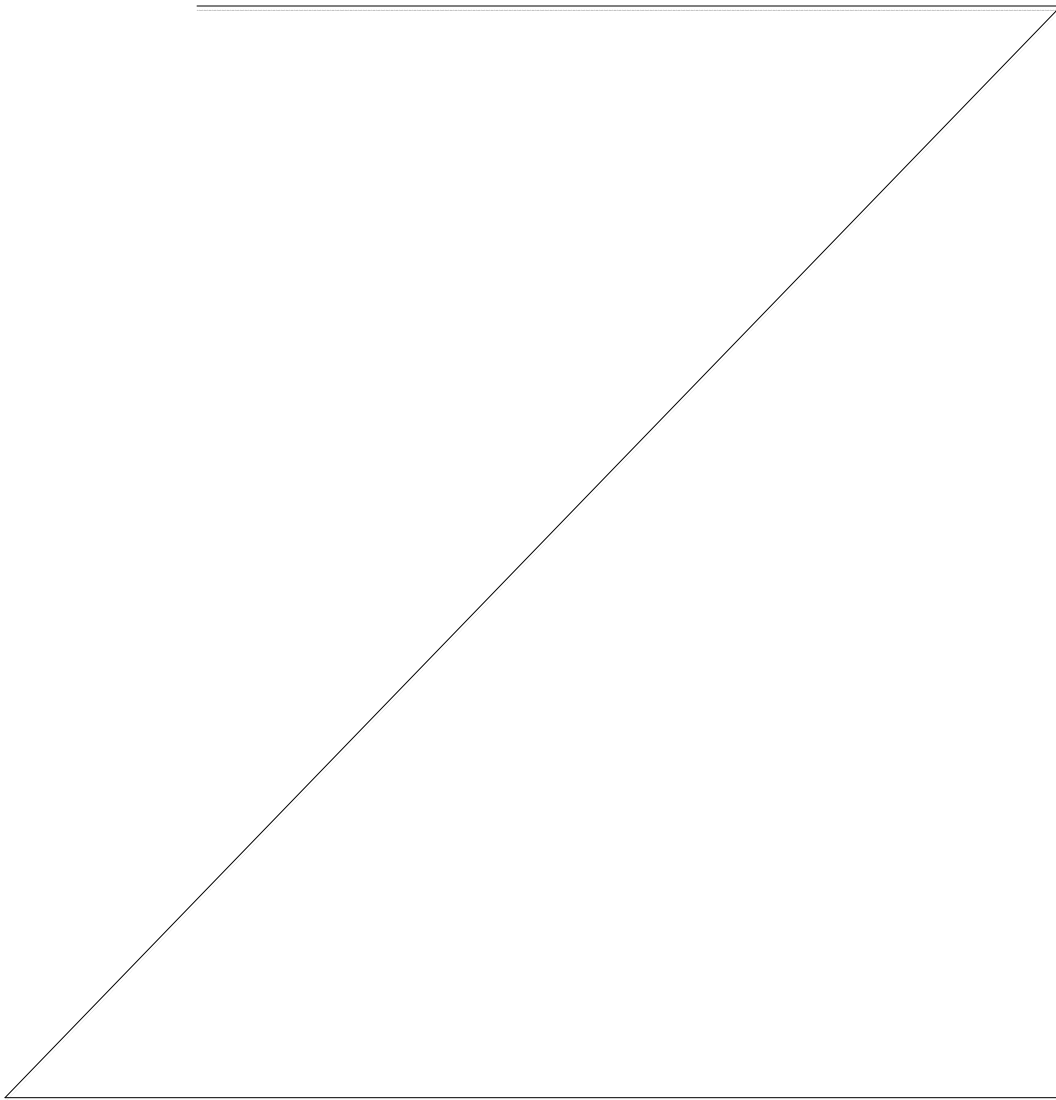
**Draft of proposed Hawaii Administrative Rules Chapter 8-515, entitled “Establishment and Oversight of Charter School Authorizers,” and Chapter 8-517, entitled “Charter Contract Transfers” (Ramseyer format), as approved by the Student Achievement Committee on February 24, 2016 with redlined suggestions from the Legislative Reference Bureau**

DEPARTMENT OF EDUCATION

Adoption of Chapters 8-515 and 8-517  
Hawaii Administrative Rules

[adoption date]

1. Chapter 8-515, Hawaii Administrative Rules, entitled "Establishment and Oversight of Charter School Authorizers", is adopted to read as follows:





"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 515

ESTABLISHMENT AND OVERSIGHT OF CHARTER SCHOOL  
AUTHORIZERS

Subchapter 1 General Provisions

§8-515-1 Purpose  
§8-515-2 Definitions  
§8-515-3 Computation of time  
| §8-515-4 (Reserved)

Subchapter 2 Applications for Chartering  
Authority

§8-515-5 Applications, generally  
§8-515-6 Application and approval process  
§8-515-7 Eligible entities  
§§8-515-8 to 8-515-9 (Reserved)

Subchapter 3 Oversight and Evaluation of  
Authorizers

§8-515-10 Performance evaluation system  
§8-515-11 Noncompliance  
§§8-515-12 to 8-515-13 (Reserved)

Subchapter 4 Renewal or Nonrenewal of

## Chartering Authority

- §8-515-14 Reasons for nonrenewal
- §8-515-15 Application for chartering authority renewal
- §8-515-16 Performance report; notification of the prospect of nonrenewal
- §8-515-17 Nonrenewal decision by the board
- §8-515-18 (Reserved)

## Subchapter 5 Revocation of Chartering Authority

- §8-515-19 Reasons for revocation
- §8-515-20 Notification of prospect of revocation
- §8-515-21 Revocation decision by the board

## SUBCHAPTER 1

### GENERAL PROVISIONS

§8-515-1 Purpose. This chapter governs the application process to become a charter school authorizer, oversight and evaluation of authorizers and the commission, renewal or nonrenewal of chartering authority, and revocation of chartering authority pursuant to chapter 302D, Hawaii Revised Statutes. [Eff \_\_\_\_\_] (Auth: HRS §302A-1112) (Imp: HRS §§302D-4, 302D-6, 302D-11)

§8-515-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Applicant" means the applicant who submits an application for chartering authority to the board.

"Authorizer" means an entity with chartering authority established pursuant to section 302D-4, Hawaii Revised Statutes. For purposes of this chapter, this term does not include the commission.

"Authorizing contract" means a fixed-term, renewable contract between an authorizer and the board that outlines the performance expectations of the authorizer and the roles, powers, and responsibilities for each party to the contract.

"Board" means the board of education.

"Commission" means the state public charter school commission established pursuant to section 302D-3, Hawaii Revised Statutes, with statewide chartering authority.

"Chartering authority" means the authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with charter applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts in accordance with chapter 302D, Hawaii Revised Statutes. [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §§302D-1, 302D-4, 302D-11)

§8-515-3 Computation of time. The time in which any act provided in this chapter is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday and then it is also excluded. When the prescribed period of time is less than seven days, Saturdays, Sundays, or state holidays within the designated period shall be excluded in the computation. [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §91-2)

| §-8-515-4 (Reserved).

## SUBCHAPTER 2

## APPLICATIONS FOR CHARTERING AUTHORITY

§8-515-5 Applications, generally. (a) The board shall develop an application form, process, and processing schedule for applying to become an authorizer pursuant to section 302D-4, Hawaii Revised Statutes. The application form shall include a description of the application process and the application processing schedule.

(b) The board shall develop policies, criteria, or guidelines for evaluating applications for chartering authority based on nationally recognized principles and standards for quality charter authorizing. The policies, criteria, or guidelines may be included in the application form.

(c) The board shall make available the application form and the policies, criteria, or guidelines for evaluating applications to any person interested in establishing an authorizer. [Eff  
] (Auth: HRS §302A-1112) (Imp: HRS  
§302D-4)

§8-515-6 Application and approval process. (a) The annual application and approval cycle for chartering authority shall be no longer than twelve months.

(b) The application and approval process shall be determined by the board, and shall provide for and include, at a minimum, the following elements:

- (1) The submission of a notice of intent to apply for chartering authority to the board from each interested eligible entity;
- (2) The timely submission of a completed application for chartering authority to the board;
- (3) The timely review of the application by the board for completeness, and notification by

the board to the applicant that the application is complete;

- (4) Upon receipt of a completed application, the review and evaluation of the application by qualified persons, including, but not limited to, an in-person interview with representatives from the applicant to assess the capacity of the applicant;
- (5) An opportunity in a public forum for the public to provide input on each application for chartering authority; and
- (6) Following the review and evaluation of an application for chartering authority, approval or denial of the application by the board in a meeting open to the public.

(c) The board shall execute an authorizing contract with each entity it has approved for chartering authority pursuant to ~~subsection~~ 302D-4(g), Hawaii Revised Statutes.

(d) If an application is denied, the board shall notify the applicant in writing, served by registered or certified mail with return receipt requested, stating the reason therefor, with specific references to the adopted policies, criteria, or guidelines for evaluating applications for chartering authority.

[Eff ] (Auth: HRS §302A-1112) (Imp:

HRS §302D-4)

§8-515-7 Eligible entities. (a) Governing boards of accredited public and private postsecondary institutions, including community colleges, technical colleges, and four-year universities shall be eligible to submit an application to the board for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction; provided that any private postsecondary institution is registered to do business in this ~~s~~State in accordance with state law.

(b) A state or county agency shall be eligible to submit an application to the board for statewide, regional, or local chartering authority.

(c) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, shall be eligible to submit an application to the board for statewide chartering authority; provided that the organization is registered to do business in this ~~s~~State in accordance with state law. Nonpublic sectarian or religious organizations and any other charitable organization which in their federal Internal Revenue Service Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer pursuant to ~~sub~~section 302D-4(d), Hawaii Revised Statutes.

(d) For purposes of this subchapter, ~~:~~

"Local chartering authority" means chartering authority within one or more designated department of education complex areas.

~~"Regional chartering authority" means chartering authority within a county or an island-wide geographic area. For purposes of this subchapter,~~

~~"local chartering authority" means chartering authority within one or more designated department of education complex areas.~~

(e) The board may disqualify any application as provided by law. [Eff \_\_\_\_\_] (Auth: HRS §302A-1112) (Imp: HRS §302D-4)

§§8-515-8 to 8-515-9 (Reserved).

### SUBCHAPTER 3

#### OVERSIGHT AND EVALUATION OF AUTHORIZERS

§8-515-10 Performance evaluation system. (a) The board shall develop a performance evaluation system to assess the effectiveness of all authorizers and the commission. The performance evaluation system shall, at a minimum:

- (1) Assess the effectiveness of an authorizer or the commission in carrying out its duties in a manner consistent with the purpose of charter schools, as determined by the board, and the spirit and intent of chapter 302D, Hawaii Revised Statutes;
  - (2) Apply nationally recognized principles and standards for quality charter authorizing in assessing performance;
  - (3) Include and provide for regular reviews or periodic formal evaluations;
  - | -(4) Assess the compliance of each authorizer and the commission with existing charter contracts, its authorizing contract, board policies, rules, and laws, as applicable; and
  - | (5) Include and provide for mechanisms for initiating and conducting a special review of an authorizer or the commission pursuant to ~~sub~~section 302D-11(c), Hawaii Revised Statutes.
- (b) The performance provisions within each authorizing contract shall be based on the performance evaluation system. [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §§302D-6, 302D-11)

§8-515-11 Noncompliance. (a) If at any time the board finds that an authorizer or the commission is not in compliance with a material provision of existing charter contracts, its authorizing contract, board policies, rules, and laws, as applicable, the board shall notify the authorizer or commission in writing of the identified problems. The notice shall be served upon the authorizer or commission by registered or certified mail.

(b) The authorizer or commission shall have thirty days from the date of mailing of the notice to respond to the identified problems and submit to the board for approval a corrective action plan for remedying the problems in a reasonable time.

(c) If the authorizer fails to submit a corrective action plan or does not make significant progress in remedying the identified problems in a reasonable time, the board shall notify the authorizer that it intends to revoke the authorizer's chartering authority pursuant to ~~sub~~section 302D-11(d), Hawaii Revised Statutes, and in accordance with subchapter 5.

(d) If the commission fails to submit a corrective action plan or does not make significant progress in remedying the identified problems in a reasonable time, the board may terminate the terms of some or all of the members of the commission pursuant to ~~sub~~section 302D-3(h), Hawaii Revised Statutes.  
 [Eff \_\_\_\_\_] (Auth: HRS §302A-1112) (Imp: HRS §§302D-3, 302D-11)

§§8-515-12 to 8-515-13 (Reserved).

#### SUBCHAPTER 4

##### RENEWAL OR NONRENEWAL OF CHARTERING AUTHORITY

§8-515-14 Reasons for nonrenewal. An authorizing contract may not be renewed for any of the following reasons:

- (1) Persistently unsatisfactory performance of the authorizer's portfolio of public charter schools;
  - (2) Persistent, regular, or substantial violations of material provisions of a charter contract or the authorizer's authorizing contract;
  - (3) Failure to meet or make sufficient progress toward performance expectations set forth in the authorizing contract; or
  - (4) Failure to remedy other authorizing problems identified by the board.
- [Eff \_\_\_\_\_]

] (Auth: HRS §302A-1112) (Imp: HRS §§302D-4, 302D-11)

§8-515-15 Application for chartering authority renewal. (a) The board shall develop a chartering authority renewal application form, which shall be made available to each authorizer whose authorizing contract will expire the following calendar year. The renewal application form shall also include a description of the renewal application process, the renewal application processing schedule, and the policies, criteria, or guidelines described in subsection (b).

(b) The board shall develop policies, criteria, or guidelines for evaluating chartering authority renewal applications; provided that evaluation criteria shall be based on the authorizing contract, performance evaluation system, and nationally recognized principles and standards for quality charter authorizing.

(c) An authorizer seeking renewal shall submit a renewal application to the board pursuant to the renewal policies, criteria, or guidelines adopted by the board. [Eff: \_\_\_\_\_] (Auth: HRS §302A-1112) (Imp: **HRS** §§302D-4, 302D-11)

§8-515-16 Performance report; notification of the prospect of nonrenewal. (a) The board shall prepare a performance report for each authorizer whose authorizing contract will expire the following calendar year. The performance report shall summarize the authorizer's performance record to date, shall be in writing, and shall be served upon the authorizing contract holder by registered or certified mail.

(b) If applicable, the performance report shall notify the authorizing contract holder of any weaknesses, deficiencies, or concerns which may result in nonrenewal of the contract and shall include but not be limited to the following:

- (1) A clear and specific statement of the authorizer's weaknesses or deficiencies, with references to the applicable contract terms or performance standards that have not been met; and
- (2) A statement that the board will make its final decision on whether or not to renew the authorizing contract at a public meeting, including the date, time, and place of the meeting.

(c) The authorizer shall have thirty days from the date of mailing of the performance report to submit a renewal application, to respond to the performance report and any identified weaknesses, deficiencies, or concerns, to submit any corrections or clarifications for the report, and to request a hearing.

(d) If the authorizing contract holder disputes the board's assessment or claim of weaknesses or deficiencies, the board, after considering the authorizing contract holder's response, shall reaffirm, modify, or retract its earlier notification of weaknesses or deficiencies, and shall so notify the authorizing contract holder in writing served by registered or certified mail. [Eff ]

(Auth: HRS §302A-1112) (Imp: [HRS](#) §§302D-4, 302D-11) |

§8-515-17 Nonrenewal decision by the board. (a) The board shall make a final decision on whether or not to renew the authorizing contract within sixty days following receipt of the application for contract renewal.

(b) Within fifteen days of making its decision to renew or not renew the authorizing contract, the board shall issue its decision in writing, served upon the authorizing contract holder by registered or certified mail with return receipt requested. The decision shall set forth, with reasonable specificity, the reason for its decision. [Eff ]

(Auth: HRS §302A-1112) (Imp: [HRS](#) §§302D-4, 302D-11) |

§8-515-18 (Reserved).

## SUBCHAPTER 5

### REVOCATION OF CHARTERING AUTHORITY

§8-515-19 Reasons for revocation. Chartering authority may be revoked if an authorizer persists, after due notice from the board pursuant to subsection 302D-11(c), Hawaii Revised Statutes, and section 8-515-11 in violating a material provision of a charter contract or its authorizing contract with the board, or fails to remedy other authorizing problems identified by the board. [Eff \_\_\_\_\_] (Auth: HRS §302A-1112) (Imp: HRS §302D-11)

§8-515-20 Notification of prospect of revocation. Whenever the board has reason to believe that chartering authority should be revoked, the board shall notify the authorizing contract holder in writing of the prospect of revocation. The notification shall be served by registered or certified mail with return receipt requested and shall include the following:

- (1) The reason why revocation is contemplated;
- (2) The date by which the authorizing contract holder shall respond, which date shall be not less than thirty days from the date of notification; and
- (3) A statement that the board will make its final decision on whether or not to revoke chartering authority at a public meeting,

including the date, time, and place of the meeting. [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §302D-11)

§8-515-21 Revocation decision by the board. (a) The board shall make a final decision on whether or not to revoke chartering authority within thirty days following receipt of the response from the authorizing contract holder of the notice of prospect of revocation.

(b) Within fifteen days of making its decision on whether or not to revoke chartering authority, the board shall issue a report notifying the authorizing contract holder in writing, served by registered or certified mail with return receipt requested, of its final decision. The report shall set forth, with reasonable specificity, the reason for its decision." [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §§91-2, 302D-11)

2. Chapter 8-517, Hawaii Administrative Rules, entitled "Charter Contract Transfers", is adopted to read as follows:

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"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 517

CHARTER CONTRACT TRANSFERS

§8-517-1	Purpose
§8-517-2	Definitions
§8-517-3	Transfer application and process
§8-517-4	Transfers at the end of a charter contract term
§8-517-5	Transfer before the end of <u>a</u> charter contract term
§8-517-6	Transfers due to termination of authorizer's chartering authority
§8-517-7	Computation of time

§8-517-1 Purpose. This chapter governs the transfer of charter contracts between authorizers. [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §§302D-11, 302D-20)

§8-517-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Authorizer" means an authorizer as defined in section 302D-1, Hawaii Revised Statutes, and includes the commission.

"Board" means the board of education.

"Charter contract" means a charter contract as defined in section 302D-1, Hawaii Revised Statutes.

"Chartering authority" means the authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with charter applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts in accordance with chapter 302D, Hawaii Revised Statutes.

"Charter school" means a charter school as defined in section 302D-1, Hawaii Revised Statutes.

"Charter transfer" means the transfer of a charter contract and the oversight of the charter school whose governing board holds that contract from one authorizer to another.

"Commission" means the state public charter school commission established pursuant to section 302D-3, Hawaii Revised Statutes.

~~"Chartering authority" means the authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with charter applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts in accordance with chapter 302D, Hawaii Revised Statutes.~~

"Governing board" means a governing board as defined in section 302D-1, Hawaii Revised Statutes.

[Eff ] (Auth: HRS §302A-1112) (Imp: HRS §§302D-1, 302D-11, 302D-20)

§8-517-3 Transfer application and process. (a) The board shall develop an application form and process for charter transfers in accordance with this chapter. The charter transfer application and approval process shall provide for and include, at a minimum, the following elements:

- (1) The submission of a charter transfer application to the board;
- (2) An opportunity for the public to comment on any proposed charter transfer; and
- (3) A timely decision by the board on whether to allow the transfer.

(b) The following requirements shall apply to any and all charter transfers:

- (1) No charter school shall be allowed to transfer its charter contract to another authorizer in an attempt to reduce the level of oversight or accountability to which the charter school is currently subject or to avoid possible revocation or nonrenewal of its charter contract;
- (2) No authorizer shall be allowed to transfer a charter contract to another authorizer in an attempt to improve the overall performance of its own portfolio of charter schools or to avoid possible revocation or nonrenewal of the charter contract;
- (3) An authorizer shall not agree to accept a charter transfer nor shall it deny a charter transfer based on any financial incentives a larger portfolio of schools may provide to that authorizer;
- (4) A charter school whose authorizer has initiated a closure of the school shall not be allowed to secure a charter contract from another authorizer;
- (5) Existing charter schools shall not be allowed to apply for a charter school under another authorizer as a way of de facto transferring oversight of the school from one authorizer to another and circumventing the charter transfer process; provided that nothing in this chapter shall be construed to prevent existing charter schools from applying to another authorizer for replication or expansion purposes;
- (6) Authorizers shall share among themselves information on charter schools that are transferring between them; and
- (7) All charter transfers shall be in the best interest of students. [Eff ]  
(Auth: HRS §302A-1112) (Imp: HRS §§302D-11, 302D-20)

§8-517-4 Transfers at the end of a charter contract term. (a) The transfer of a charter contract that is in its final contract year shall only be allowed if the governing board has met the terms of its expiring charter contract with its current authorizer, including any performance requirements, to a degree that would have otherwise resulted in charter contract renewal with the current authorizer, and the proposed new authorizer agrees to accept the charter transfer; provided that the requirements in section 8-517-3(b) are met. The authorizer that is a party to the existing charter contract shall inform the proposed authorizer about the academic, financial, organizational, and operational performance status of the charter school, as well as any outstanding contractual obligations that exist.

(b) The governing board shall submit to the board and its current authorizer a written and signed letter of its intent to not renew the charter contract. The proposed authorizer and the governing board shall jointly submit to the board a charter transfer application. A proposed charter contract between the proposed authorizer and the governing board shall be submitted as part of the charter transfer application and shall identify and provide a plan to address any outstanding obligations from the existing charter contract.

(c) The charter transfer application shall be submitted and reviewed in accordance with the form and process establish pursuant to section 8-517-3(a); provided that the board shall make a final determination on the charter transfer application no later than sixty days before the expiration of the current charter contract.

(d) If the charter transfer is approved, the new authorizer and the governing board shall enter into a new charter contract effective upon the expiration of the charter contract between the current authorizer and governing board.

(e) If the charter transfer is not approved, the governing board may withdraw its letter of nonrenewal

and proceed with its current authorizer's charter contract renewal process. If the charter transfer is not approved and the governing board does not withdraw its letter or enter into a new charter contract with its current authorizer, the charter contract shall be considered nonrenewed, and the charter school shall close in accordance with applicable law and the terms of the charter contract. [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §§302-D-18, 302D-20) |

§8-517-5 Transfers before the end of a charter contract term. (a) The transfer of a charter contract that is not in its final contract year shall only be allowed under special circumstances pursuant to section 302D-20, Hawaii Revised Statutes; provided that the requirements in section 8-517-3(b) are met.

(b) An authorizer or a governing board may submit to the board a written and signed letter requesting the transfer of a charter contract to another authorizer; provided that an authorizer may submit a letter only with the mutual consent of the governing board. The letter shall explain the reason for the request, provide evidence that the transfer is in the best interest of the charter school's students, and identify the proposed new authorizer that has agreed to the proposed transfer. The authorizer that is a party to the existing charter contract shall inform the proposed authorizer about the academic, financial, organizational, and operational performance status of the charter school, as well as any outstanding contractual obligations that exist.

(bc) The proposed authorizer and the governing board shall jointly submit to the board a charter transfer application. A proposed charter contract between the proposed authorizer and the governing board shall be submitted as part of the charter transfer application and shall identify and provide a plan to address any outstanding obligations from the existing charter contract. |

(ed) The charter transfer application shall be submitted and reviewed in accordance with the form and |

process established pursuant to section 8-517-3(a); provided that the board shall make a final determination on the charter transfer application no later than sixty days before the end of the current term year of the current charter contract.

(~~de~~) If the charter transfer is approved, the new authorizer and the governing board shall enter into a new charter contract effective upon the end of the current term year of the charter contract between the current authorizer and governing board. The effectuation of the new charter contract shall terminate the previous charter contract. [Eff  
] (Auth: HRS §302A-1112) (Imp: HRS  
§302D-20)

§8-517-6 Transfers due to termination of authorizer's chartering authority. (a) If an authorizer's chartering authority is terminated due to the revocation, nonrenewal, or voluntary surrender of its authorizing contract, the transfer of any charter contracts overseen by that entity shall be allowed; provided that the requirements in section 8-517-3(b) are met. The entity whose chartering authority is terminated shall inform the board about the academic, financial, organizational, and operational performance status of each charter school in its portfolio, as well as any outstanding contractual obligations that exist.

(b) Each governing board overseen by the entity whose chartering authority is terminated shall submit to the board a charter transfer application.

(c) The board shall solicit from the pool of existing authorizers a new authorizer for each charter school overseen by the entity whose chartering authority is terminated. Each proposed charter transfer shall be with the mutual agreement of the proposed new authorizer and governing board; provided that if no other authorizer agrees or is available to accept the transfer of a charter contract overseen by the entity whose chartering authority is terminated,

the commission shall be the new authorizer for that charter school.

(d) Each charter transfer application shall be submitted and reviewed in accordance with the form and process establish pursuant to section 8-517-3(a) or a special expedited process developed and adopted by the board notwithstanding section 8-517-3(a); provided that the board shall make a final determination on each charter transfer application no later than ninety days before the start of the next school year.

(e) Upon the approval of each charter transfer, the new authorizer and the governing board shall enter into a new charter contract effective immediately. Any new charter contract shall be effective for the remainder of the contract term under the previous charter contract with previous authorizer.

Notwithstanding section 8-517-4, if the remaining term of the charter contract with the previous authorizer is less than a year, the new authorizer and governing board shall enter into a new charter contract with a contract term no less than a year. [Eff

] (Auth: HRS §302A-1112) (Imp: HRS §§302D-11, 302D-20)

§8-517-7 Computation of time. The time in which any act provided in this chapter is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday and then it is also excluded. When the prescribed period of time is less than seven days, Saturdays, Sundays, or state holidays within the designated period shall be excluded in the computation." [Eff ] (Auth: HRS §302A-1112) (Imp: HRS §91-2)

3. The adoption of chapters 8-5~~04~~15 and 8-5~~05~~17, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on ~~November~~ 13, 2014, and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Chairperson, ~~State~~  
~~Public~~Board of Education  
\_\_\_\_\_~~Charter School Commission~~

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

## Exhibit B

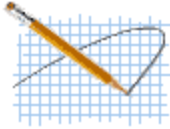
### Digest of public comments on draft administrative rules (as of February 24, 2016)

Commenter	Position	Digested Comments
Steve Hirakami, Director, Hawaii Academy of Arts & Science PCS	Comments	Charter school operators are not seeking less accountability but increased accountability for authorizers
Gene Zarro, Vice Chair, Kihei Charter School Governing Board	Support	No changes; request to move forward with draft rules
Ekekela Aiona, Executive Director, 'Aha Punana Leo	Support intent and process	<b><u>Specific changes requested:</u></b> Amend §8-515-10(a)(2) to "Apply <u>locally and nationally</u> recognized principles and standards for quality charter authorizing in assessing performance"
Kamana'opono Crabbe, Chief Executive Officer, Office of Hawaiian Affairs	Support intent	Request for an additional month for review and preliminary comment; request for alternative opportunities for neighbor island participation during public hearing process
John Hedstrom, Vice President of Policy and Advocacy, National Association of Charter School Authorizers	Support intent	<b><u>Specific changes requested:</u></b> Amend §8-515-5 to include evaluation criteria in the areas of organizational capacity, solicitation and evaluation of charter applications, performance contracting, ongoing charter school oversight and evaluation, and charter renewal and revocation processes.  Amend §8-515-10 to include actions that would result in a special review, including: persistently unsatisfactory performance of an authorizer's portfolio of charter schools; multiple complaints that are supported by sufficient facts alleging the authorizer is not in compliance with their charter contract or authorizer duties; failure of the authorizer to or its charter schools to comply with applicable state or federal law or regulation; or other circumstances not listed. Include a written notification to the authorizer that a special review will occur and send the written report of the special review to the authorizer and make it public.  Amend §8-517-6 so that a transfer from a terminated authorizer is not guaranteed and only allowed if the charter school and another authorizer mutually agree to contract terms.
John Thatcher	Support	Support the need for defining a clear purpose for charter schools but only concern is with the process for doing so
Ka'ano'i Walk, Senior Policy Analyst, Kamehameha Schools	Support process	Request for an additional 30 days for review and preliminary comment
Kanu o ka 'Āina New Century Public Charter School Governing Board	Support process	Multiple authorizers will lead to an improved charter school movement
Patricia Bergin, Director, Ka HULI Mua	Support	A robust charter movement would offer more choice to communities and allow the development of more preschools
Jeannine Souki, Executive Director, Hawaii Public Charter	Support process	Request for an additional 30 days for review and preliminary comment

Commenter	Position	Digested Comments
Schools Network		
Hannah Kihalani Springer, President, Kanu o ka Aina Learning 'Ohana	Support process	To strengthen Hawaii's charter school movement, the next steps are reducing caps on growth including the current regulatory environment, increasing number of authorizers, granting more flexibility to schools to innovate, strengthening accountability through mission appropriate assessments, and increasing facilities support
Susie Osborne, Kua o ka La	Comments	Request for public hearings on neighbor islands; concern about the "spirit and intent of charter school law" focusing on high academic performance; would like flexibility in the timelines for transferring to another authorizer; concern about disallowing a school whose authorizer has initiated closure from securing a charter contract from another authorizer
William Wilson	Support intent	Need for a Hawaiian language medium authorizer; Hawaii is the national leader in Native American language medium education and cannot depend on copying "national best practice" in establishing administrative rules; "unsatisfactory performance" can only be determined through assessments through the medium of instruction and DOE and Commission has unjustly determined Nawahi as a "priority school"; §8-515-14(1) would result in Nawahi losing its charter contract
Keiki Kawai'ae'ae, Director, Ka Haka 'Ula O Ke'elikōlani College, University of Hawai'i at Hilo	Comments	Ensure rules honor the uniqueness provided through Hawaii's Constitution allowing for a collaborative partnership from preschool through college; interested in becoming an authorizer
Kauanoë Kamana, Principal/Director, Nāwahīokalani'ōpu'u Laboratory School	Support process	Propose to change Subchapter 4 and all other sections that make reference to "unsatisfactory performance of the authorizer's portfolio"; administrative rules must consider the human interaction and not just enforcement of law
Allyson Tamura, Elementary Principal, Kanu o ka 'Āina NCPCS	Support	Multiple authorizers would allow more intimate knowledge of educational approach instead of a one-size-fits-all approach
Edith Kawai	Support	Provides additional reference sources supporting multiple authorizers

**Exhibit C**

**Public comments on draft administrative rules (as of February 24, 2016)**

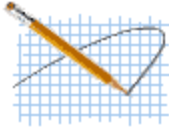


**Steve Hiramami/HAASPCS/HIDOE**

02/05/2016 08:45 AM

To boe\_hawaii@notes.k12.hi.us  
cc  
Subject Administrative Rules--Charter  
Authorizers

To make it clear, charter school operators are not looking to "hop" to authorizers to escape closure or seek lax accountability measures. Charter schools want an authorizer with the same level of accountability standards, but who also recognizes the differences and uniqueness of each charter school and is willing to negotiate bilateral contracts as prescribed by law. We desire an authorizer who knows and understands the communities we serve and support our mission and vision to educate, enrich, and inspire the whole student to reach their highest level of achievement. We want an authorizer who gives us access to decision making so that we can be part of the solution rather than part of the problem. We want an authorizer who will use its influence in government to seek fairness and equity in federal and state educational opportunities. This is certainly not about lowering the bar for charter school accountability. Conversely, this is raising the bar on authorizing and maintaining quality charter schools in the State.  
Steve Hiramami, Director, Hawaii Academy of Arts & Science PCS



Gene Zarro <gene.zarro@gmail.com>

02/17/2016 12:51 PM

To boe\_hawaii@notes.k12.hi.us  
cc Grant Chun [REDACTED]  
Subject Comments on Admin rules for Multiple Authorizers

Aloha Members of the State Board of Education

The Kihei Charter School Governance Board does not see any reason to edit the document and suggested rules to establish multiple authorizers for Hawaii's public charter schools.

We encourage you to move forward with these rules as we feel that the need for additional authorizers is very important.

Mahalo for your effort.

Sincerely

Gene Zarro

Vice-chair of the Kihei Charter School Governance Board.

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(808) 969-7512  
[www.ahapunanaleo.org](http://www.ahapunanaleo.org)

**Ka Papa Alaka'i**  
**Board of Directors**

Kauanoë Kamanā,  
*Pelekikena*

'Alohilani Rogers,  
*Kākau 'Ōlelo*

Ka'iu Kimura,  
*Pu'ukū*

Larry Kimura

William H. Wilson

Kītope Raymond

Huilāu Wilson

Keawe Lopes

**Ka Luna Ho'okele**  
**Executive Director**

M. 'Ekekela Aiona

**Nā Papahana**  
**Pūnana Leo**

**Pūnana Leo Programs**

**Nā Kula Pūnana Leo**  
**Pūnana Leo Family-Based**  
**Preschool Program**

Pūnana Leo o Hilo

Pūnana Leo o Waimea

Pūnana Leo o Kona

Pūnana Leo o Maui

Pūnana Leo o Moloka'i

Pūnana Leo o Honolulu

Pūnana Leo o Ko'olau Poko

Pūnana Leo o Ko'olau Loa

Pūnana Leo o Wai'ānae

Pūnana Leo o Mānoa

Pūnana Leo o Kaua'i

**Niuhāhiki**

**Hawaiian Language Online**

February 17, 2016

Board of Education  
State of Hawaii  
1390 Miller Street, Room 405  
Honolulu, Hawaii 96813  
[BOE\\_Hawaii@notes.k12.hi.us](mailto:BOE_Hawaii@notes.k12.hi.us)

Board of Education,

Re: Comments on the draft administrative rules for charter schools.

Mahalo nui for the efficient administrative rule making process currently underway for the establishment and oversight of Charter School Authorizers.

We ask that Subchapter 3 Oversight and Evaluation of Authorizers include in the Performance evaluation system application of locally and nationally recognized principles and standards for quality charter authorizing in assessing performance. We believe that expanding 8-515-10 (2) to include "locally" recognizes that our performance evaluation system can apply our own best practices in the evaluation system.

The 'Aha Pūnana Leo was involved in the application and establishment of three Hawaiian medium public charter schools in 2001. They are Ke Kula 'o Nāwahīokalani'ōpu'u Iki, Ke Kula 'o SM Kamakau and Ke Kula Ni'ihau o Kekaha. We remain connected to these schools as well as the addition of Kawaikini via the laboratory school program of UHH's Ka Haka 'Ula o Ke'elikōlani. Although all of these school are governed by their own boards, we remain committed to the revitalization of Hawaiian language for our children and families.

The 'Aha Pūnana Leo has over the last 30 years advocated for equitable education for our children and families that choose schools where Hawaiian is the language of instruction. We have testified before the Senate Committee on Indian Affairs on key federal legislation that would align education policy to the Native American Languages Act of 1990 (NALA). The NALA is federal policy that promotes the use of Native American Languages in education with special provisions on teacher training, assessments and use of elders in the classrooms. Hawaiian is a Native American Language. The Elementary and Secondary Education Act (ESEA) now reauthorized as the Every Student Succeeds Act (ESSA), includes a new grant program for schools using Native American Languages as the medium of instruction. A founding member of the National Coalition of Native American Language Schools and Programs, the 'Aha Pūnana Leo continues to highlight the need to align the ESEA to NALA. The 'Aha Pūnana Leo along with others have provided the US Department of Education a briefing on Native Hawaiian education issues in

E O I a K a ' Ō l e l o H a w a i ' i

May 2015, highlighting “Protecting ‘Ōlelo Hawai‘i: The Education Revolution to Improve Student Success and Preserve the Hawaiian Language”. The White House Initiative on Asian Americans and Pacific Islanders Executive Director, Ms. Kiran Ahuja coordinated the briefing. Subsequent to the briefing, we were visited by Ms. Ahuja to the Pūnana Leo o Hilo infant/ toddler & preschool program and Ke Kula ‘o Nāwahīokalani‘ōpu‘u where she noted in her press release that “the entire school program from infant and toddler through grade 12 is an integrated laboratory school program for the state’s Hawaiian language college in Hilo. The entire system and similar schools statewide grew out of the community driven Punana Leo Hawaiian language preschools.”

The ‘Aha Pūnana Leo is a non profit organization dedicated to the revitalization of the Hawaiian language. We operate the only statewide Hawaiian medium early learning program with our 11 preschools and 2 infant/toddler programs. Our keiki and families matriculate into public DOE schools or Hawaiian medium charter schools.

We support establishment of administrative rules to allow Hawai‘i to have multiple authorizers.

Mahalo nui to the Board of Education for your commitment to good education and setting policies that benefit a school system with two official language pathways.

Ua Mau Ke Ea O Ka ‘Āina I Ka Pono

Sincerely,

A handwritten signature in black ink, appearing to read "Ekekela Aiona". The signature is fluid and cursive, with the first name being more prominent.

Ms. Ekekela Aiona

PHONE (808) 594-1888

FAX (808) 594-1938



**STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS**  
560 N. NIMITZ HWY., SUITE 200  
HONOLULU, HAWAII 96817

**VIA ELECTRONIC MAIL: boe hawaii@notes.k12.hi.us**

February 18, 2016

Mr. Lance A. Mizumoto, Chair  
Hawai'i State Board of Education  
1390 Miller Street  
Honolulu, HI 96813

RE: Draft Administrative Rules That Would Allow For Multiple Authorizers

Aloha mai e Chair Mizumoto:

The administration of the Office of Hawaiian Affairs (OHA) appreciates the opportunity to submit this letter in response to the Hawai'i State Board of Education's ("BOE") invitation to charter school stakeholders and the general public to comment on the proposed administrative rules prior to the BOE approving the draft for public hearing. OHA is an interested partner in our Hawai'i public charter school system, since, among other reasons, seventeen of the thirty-four public charter schools are Hawaiian-focused and Hawaiian language immersion charter schools, which OHA has invested over \$15,000,000 in since SY2005-2006.

OHA appreciates the BOE's urgency in expediting the promulgation of these rules, which were first publicly posted on January 29, 2016, and which went before the BOE Student Achievement Committee ("SAC") shortly thereafter on February 2, 2016. OHA submitted testimony to the SAC expressing **Support** for the draft rules, and also stated that the public hearing process would later afford OHA an opportunity to identify specific concerns that beneficiary stakeholders may have with the draft rules. At that time, the BOE envisioned that the draft rules would come before the BOE for action on February 16, 2016, and if approved, would request from the Governor approval to hold a public hearing on the proposed rules.

However, subsequent to the SAC meeting, BOE staff invited charter school stakeholders and the general public to provide preliminary comments by February 18, 2016, while also noting that the BOE would be accepting comments later at a public hearing as part of the administrative rules promulgation process.

Under these circumstances, the purpose of this letter is to respectfully request at least a one-month extension for charter school stakeholders and the general public to provide preliminary comment to the draft administrative rules. While it is encouraging to see the promulgation of draft rules, OHA believes there is a need for additional time to adequately review and vet the draft language. Also, as currently planned, the administrative rules process does not provide the opportunity for neighbor island testifiers to teleconference in for public hearing. Testimony for hearings are taken either in person at the BOE conference room or in written form. Since a significant number of charter schools (twenty-one of the thirty-four charter schools) are located on neighbor islands, OHA respectfully requests that the BOE consider providing alternative opportunities for meaningful neighbor island participation.

Mahalo nui loa for the opportunity to provide this letter in response to the BOE's invitation to comment on the proposed administrative rules. 'A'ohe lua e like ai me ka ho'ona'auao 'ana o ke kamali'i. Nothing can compare in worth with the education of our children.

'O wau iho nō me ka 'oia'i'o,

A handwritten signature in black ink, appearing to read 'Kamana'opono M. Crabbe'.

Kamana'opono M. Crabbe, Ph.D.  
Ka Pouhana, Chief Executive Officer

KMC:mm

February 18, 2016

Dear Hawaii Board of Education Members,

On behalf of the National Association of Charter School Authorizers (NACSA), I submit comments on Hawaii Administrative Rules Relating to the Establishment and Oversight of Charter School Authorizers and Charter Contract Transfers.

NACSA is devoted to improving public education by improving the policies and practices of the organizations that are responsible for authorizing and overseeing charter schools. We advocate for authorizers to hold themselves, and the schools they oversee, to high standards based on national best practices, defined in our *Principles & Standards for Quality Charter School Authorizing*.

NACSA supports these administrative rules in clarifying the role of strong authorizing to quality charter schools. NACSA supports the ability of the board of education to:

1. screen potential new authorizers to ensure they have the commitment and capability to perform the important duties of authorizing;
2. assess the effectiveness of all authorizers in Hawaii, holding them responsible for their practices as well as the charter schools they oversee; and
3. non-renew or revoke chartering authority of authorizers who do not perform up to their contractual obligations.

The application process for new authorizers as described in §8-515-5 should include the criteria for evaluating authorizer applications. The Board should consider the authorizer application's alignment with nationally recognized principles and standards for quality charter authorizing in at least the areas of:

1. organizational capacity;
2. solicitation and evaluation of charter applications;
3. performance contracting;
4. ongoing charter school oversight and evaluation; and
5. charter renewal and revocation processes.

In assessing the effectiveness of all authorizers in Hawaii in §8-515-10, the Board should include details surrounding initiating and conducting a special review of authorizers. Actions that should result in a special review include:

1. persistently unsatisfactory performance of an authorizer's portfolio of charter schools;
2. multiple complaints that are supported by sufficient facts alleging the authorizer is not in compliance with their charter contract or authorizer duties;
3. failure of the authorizer to or its charter schools to comply with applicable state or federal law or regulation; or
4. other circumstances not listed.



Any special review should include written notification to the authorizer that a special review will occur and the reason(s) for it. A written report of the special review should also be sent to the authorizer and made public.

These rules are paramount to quality authorizing in Hawaii and why NACSA has opposed HB 2214 and SB 3104, currently pending before the legislature, that would eliminate this important application process for authorizers.

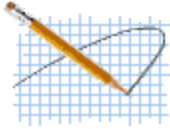
NACSA also supports the charter transfer rules and the commitment of the state of Hawaii to prevent authorizer shopping. While there are some valid reasons for a transfer of authorizers that these rules still allow for, charter transfer should never be used to avoid authorizer oversight or accountability, or to prevent a poorly performing school from closing, as noted in §8-517-3f. In the case of the termination of an authorizer, schools should have a way to move to another authorizer, but this transfer should not be guaranteed. §8-517-6 guarantees that when an authorizer is terminated, the schools in its portfolio will be transferred to another authorizer or the Commission. Transfer should only happen if warranted. If the charter school and another authorizer, including the Commission, do not mutually agree to contract terms, the charter school should close. No authorizer should be forced to assume oversight for a failing charter school.

The key factor for a flourishing charter sector is the quality of its authorizers. The presence of authorizers that do not adhere to high-quality practices threaten the sector and enable poor performers to get approved and stay open. That is not in the best interest of the children of Hawaii. These rules attempt to stop these authorizers and ensure every charter school is a quality school.

We are happy to discuss the issue further; please contact Christina Ricordati, our Policy Analyst, at [christinar@qualitycharters.org](mailto:christinar@qualitycharters.org) or 312-376-2325.

Sincerely,

John Hedstrom, JD  
Vice-President, Policy and Advocacy  
National Association of Charter School Authorizers



John Thatcher <john\_thatcher@hawaii.rr.com>

02/18/2016 11:23 AM

To "boe\_hawaii@notes.k12.hi.us"  
<boe\_hawaii@notes.k12.hi.us>

cc

Subject Comments on the Proposed  
Administrative Rules for Multiple  
Charter School Authorizers

I applaud the Board of Education for creating a draft of the administrative rules needed to allow multiple charter school authorizers in Hawaii. These proposed rules are reasonable, responsible and fair. My only concern is with the process that will be employed to establish a set "purpose" for charter schools in our state. On February 16, 2016 Mr. Tom Hutton testified at the Board of Education general meeting briefing on legislation relating to charter schools. He defined the purpose of charter schooling as HE sees it. He said, "Public policy and policymakers should recognize public charter schools as a tool for addressing state educational challenges, as a means of offering excellent educational choices to all students and families, as a means of testing and modeling educational innovations, and ultimately as a strategy for strengthening our public school system as a whole." This "purpose" statement is not consistent with the original intent of the Legislature in creating charter schools in Hawaii.

In 1999 the Hawaii Legislature amended the existing law through Act 62 to allow new start-up charter schools and changed their designation from "student-centered" to "New Century" Public Charter Schools. The twentieth State Legislature defined charter schools as "schools that utilize an alternate educational framework and are governed by an independent governing board." Conference Committee Report Number 119 acknowledged an interest in charter schools because "they provide a truly flexible, self-defining alternative for public school reform, and allow students, teachers, and administrators the opportunity for innovation and increased autonomy to achieve their academic goals."

The preamble in the bill that established charter schools in Hawaii said, "The legislature finds that as long as a public school complies with the requirements that it be free to all attending students, that its admissions policies be nondiscriminatory, and that it comply with statewide performance standards, a school should otherwise be free from statutory and regulatory requirements that tend to inhibit or restrict a school's ability to make decisions relating to the provision of educational services to the students attending the school. To nurture the ideal of more autonomous and flexible decision-making at the school level, the legislature supports the concept of new century charter schools. The legislature finds that this concept defines a new approach to education that is free of bureaucratic red tape and accommodating of the individual needs of students to allow the State to dramatically improve its educational standards for the twenty-first century. Both existing public schools and new schools may be established as new century charter schools, and these schools will allow educators to better tailor the curriculum to enhance the learning of the students. The purpose of this Act is to increase the flexibility and autonomy at the school level by allowing existing public schools and new schools to be designated as new century charter schools. These new century charter schools shall have a local school board as a governing body, and shall operate independent educational programs from those provided by the department of education statewide."

Most of the existing charter schools in our state were founded according

to the principles that guided the original legislation establishing charter schools in Hawaii. While charter schools have the potential for "strengthening our public school system as a whole" the purpose for having charter schools goes far beyond Mr. Hutton's views. I support the need for defining a clear "purpose" for charter schools in our state. I believe the original intent of the Legislature in creating charter schools is still valid and encompasses goals that are supported by the existing charter school communities throughout Hawaii.

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\*\*



## KAMEHAMEHA SCHOOLS®

February 18, 2016

Hawai'i State Board of Education  
Comments Regarding Proposed HAR 8-515 and 8-517  
Via Electronic Delivery

Aloha mai e ka Papa Ho'ona'auao! My name is Ka'ano'i Walk and I serve as the Senior Policy Analyst of the Kūamahi Community Education Group of Kamehameha Schools. As part of the second goal of Kamehameha Schools' strategic plan, which guides us to contribute to the communities' collective efforts to improve Hawai'i's education systems for Native Hawaiian learners, Kamehameha Schools is committed to support Hawaiian-focused charter schools. Therefore, we are writing to express our support of the Board of Education's efforts to establish and implement an authorizer in addition to the existing Hawai'i Public Charter School Commission. We are especially appreciative of, and encouraged by, the opportunity to provide preliminary comment and feedback in advance of the Chapter 91 Administrative Rules public hearing process. We believe that the invitation to provide preliminary feedback is a strong indicator of the BOE's commitment to transparency, accountability and public engagement in the policy-making process. For this, we offer a sincere mahalo.

We are writing to respectfully request additional time, such as an additional 30 days, to provide such feedback. While we are supportive of the intention to establish an alternative authorizer, we believe that allowing the charter school community to more fully discuss the proposed rules will result in more concrete recommendations and better informed comments. We recognize and appreciate that the public hearing process will also afford an opportunity to comment.

Kamehameha Schools advocates for and supports the achievement of Hawai'i's Native Hawaiian public school students. As such, we have been a collaborator with the Hawai'i public charter schools for over a decade. Through our work with Hawaiian-focused public charter schools, we hope to significantly impact more children and their families through education. We believe that Hawaiian-focused charter schools provide quality educational choices for all families and ultimately enhance both academic achievement and engagement for students. We encourage you, the leaders of our government to stand with us in supporting a move to improve the educational system in Hawai'i in this way.

Founded in 1887, Kamehameha Schools is a statewide educational system supported by a trust endowed by Princess Bernice Pauahi Bishop, whose mission is to improve the capability and well-being of Native Hawaiian learners. We believe that by continuing to engage in dialog around these charter school policies and proposals, we can contribute in a positive and meaningful way.

We commend the BOE for working hard to increase the effectiveness of our public education system. E kūlia i ka nu'u kākou! Let's constantly strive for the summit! Mahalo a nui.



February 18, 2016

Board of Education  
State of Hawaii  
1390 Miller Street, Room 405  
Honolulu, Hawaii 96813  
[BOE\\_Hawaii@notes.k12.hi.us](mailto:BOE_Hawaii@notes.k12.hi.us)

Re: Comments on the draft administrative rules for charter schools.

Board of Education,

Thank you for the expeditious and efficient administrative rule making process currently underway for charter schools. Kanu o ka 'Āina New Century Public Charter School (Kanu) fully supports this process.

Together our community has had unprecedented academic success. Kanu is very proud of its role in the charter movement as the *hiapo* eldest child, and is committed to living the values we teach our children, one being *kokua aku kokua mai* to give and receive help and *malama kou kuleana* take care of your responsibilities.

Evidence of our commitment to these values would include initiating and piloting HAIS/WASC accreditation and receiving a full six year term as the first charter in Hawaii to be accredited - opening the door for all other Hawaii charter schools. Kanu sought to accredit because our epistemology was so unique we wanted to ensure to the public that we were committed to quality. School leaders also used the accreditation process as a management tool to help identify areas for improvement through the eyes of neutral experienced educators.

In 2012, Kanu received a USDOE federal grant which funded the mentoring of 11 Hawaiian focused charter schools through the accreditation process along with their transition to the new Common Core Standards as well as a feasibility study of web based student information and financial reporting systems. From these efforts Kanu piloted a new web based financial system that (1) aligned with the new charter contract financial framework (2) supported community governing board control and (3) allowed transparency of all financial resources including state funding, private funding and donor-restricted funding from charter supporting nonprofits otherwise known as component units.

Kanu believes that multiple authorizers will lead to improved refinement of the charter movement by ending the existing regulatory monopoly. By following national best practice, Hawaii's multiple authorizers will ensure accountability, provide business expertise to guide communities, mitigate liabilities but also promote education innovation. Kanu would request transfer to another authorizer that would honor its accreditation efforts, financial model as best practice and its commitment to appropriate assessments in Hawaiian education.

*Mission: Kulia i ka Nu'u—Strive to reach your highest*



Partnerships for public education are the strength of our charter schools. Hawaii's unique culture encourages and promotes collaborative partnerships from preschool through college, seamless and responsive to community while grounded in values.

The Kanu Governing Board fully supports the current administrative rule making process allowing multiple authorizers and defining the oversight of authorizers.

Mahalo,

A handwritten signature in cursive script, appearing to read 'Taffi Wise'.

Taffi Wise on behalf of Kanu Governing Board

Marion Kanani Kapuniai  
Anthony Fraser  
Mason Maikui  
WD Keomailani Case  
Barbara Robertson  
Pualani Lincoln Maielua  
Randy Vitousek



## Ka HULI Mua

*The Hawai'i United Learning Initiative*

February 18, 2016

Board of Education  
State of Hawaii  
1390 Miller Street, Room 405  
Honolulu, Hawaii 96813  
[BOE\\_Hawaii@notes.k12.hi.us](mailto:BOE_Hawaii@notes.k12.hi.us)

Re: SUPPORT Administrative rules allowing multiple authorizers and oversight for authorizers

Board of Education,

Aloha my name is Patricia Bergin, I am the director for Ka HULI Mua, the Hawaii United Learning Initiative. Ka HULI Mua is a diverse preschool collaborator improving early learning outcomes in underserved communities across Hawai'i. Our preschool consortium currently includes 3 charter schools and 2 DOE schools. We are working to expand our efforts to support the development of more charter and DOE preschool programs.

We are committed to a Pedagogy of Aloha piloting a preschool system of academically rigorous curriculum delivered within an inclusive framework of native values for Hawai'i's children. Our preschools convene regularly to strengthen programming, share information and coordinate testing, accreditation and professional development. Aligned with state preschool and kindergarten standards, Ka HULI Mua preschools are grounded in research-based programs.

Ka HULI Mua goals include:

- Providing low-income disadvantaged families with a foundation in culturally-based early childhood programs;
- Delivering curriculum in a formal, safe and healthy environment;
- Exposing young learners to Hawaiian language, culture and values; and
- Teaching fundamentals to empower children to become confident life-long learners.

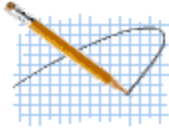
Ka HULI Mua preschools are committed to common initiatives:

- Common assessment and longitudinal data collection;
- Accreditation, compliant facilities and professional staff development;
- Enriching classrooms that integrate Hawaiian language and culture;
- Sharing best practices in early education; and honoring the diversity of members.

A quality early education foundation is critical to the academic success of a child. Hawaii has a critical shortage of preschools. A robust charter movement would offer more choice to our communities and allow the development of more preschools.

Mahalo nui,

  
Patricia Bergin  
Ka HULI Mua Director



**Jeannine Souki**  
<jeannine@hawaiiicharterschools.com>  
02/18/2016 02:26 PM

To boe\_hawaii@notes.k12.hi.us  
cc  
Subject Comment on Committee Action on  
draft of administrative rules for multiple  
charter school authorizers

Aloha Members of the Board of Education,

On behalf of the Hawai'i Public Charter Schools Network, we would like to provide some general comments on the proposed draft administrative rules for multiple charter authorizers.

Ωηιλε ωε□ωηολελψ support the BOE's decision to move forward with promulgating administrative rules to allow for other charter school authorizers to be recognized, we are respectfully requesting a brief 30-day delay in the process to allow time to review and comment on the proposed draft rules.

Αδδιτιοναλλψ,□as there are a significant number of charter schools on neighbor islands, we are requesting a public Administrative Rules hearing also be held on a neighbor island, such as Hawaii Island, which has a large number of charter schools.

Mahalo for your consideration.

My best,

**Jeannine A. Souki**  
**Executive Director**  
**Hawai'i Public Charter Schools Network**  
**[808.380.6403](tel:808.380.6403)**

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# Kanu o ka 'Āina Learning 'Ohana

Serving and perpetuating sustainable Hawaiian communities through Education with Aloha

February 18, 2016

Board of Education  
State of Hawaii  
1390 Miller Street, Room 405  
Honolulu, Hawaii 96813  
[BOE\\_Hawaii@notes.k12.hi.us](mailto:BOE_Hawaii@notes.k12.hi.us)

Re: Comments on the draft administrative rules for charter schools.

Board of Education,

Me ka ha'aha'a my name is Hannah Kihalani Springer, President of Kanu o ka Aina Learning 'Ohana (KALO) on Hawaii Island. KALO is the coordinating nonprofit organization for Na Lei Na'auao Alliance for Native Hawaiian Education (NLN) made up of 17 Hawaiian focused charter schools including 3 DOE conversion schools. In partnership with the NLN communities, KALO has been involved in developing and refining the charter movement for the last 16 years. Together with our school communities KALO has brought in over \$90 million dollars to Hawaii's charter school movement and supported 22 educational communities since 2000.

In addition to direct support to charters, KALO has created preschools, a unique master's degree program for up and coming education leaders, and a nationally certified teacher licensing program which services charter, private school and Department of Education teachers. KALO has also designed and built an educational learning destination in Waimea on Hawaii Island that meets award winning standards for sustainable design. In the process of building these facilities, KALO realized the benefit a Community Development Finance Institution (CDFI) could be for accessing federal facilities support to underserved communities, thus in 2011 KALO helped create a CDFI which is now certified and funded by the U.S. Department of Treasury.

We were able to achieve these goals through legislative empowerment, standards of best practice, accountability, and engaging synergistic public private partnerships for the betterment of education in Hawaii.

Supporting efforts around school choice and responding to various charter school needs has been challenging but well worth the effort. Currently lacking is the appropriate implementation of the intent and spirit of Hawaii's charter laws after the intense work done during numerous charter school task forces. KALO believes the next steps to strengthen Hawaii's charter school movement are (1) fewer caps on charter growth to include the current regulatory environment, (2) increasing the number of charter authorizers, (3) more flexibility for schools to innovate, (4) stronger accountability through mission appropriate assessments to measure performance, and (5) increased funding with facilities support to include allowing charter students to "purchase" food for USDA reimbursements. These steps will move Hawaii to having more high-quality public charter school options for the students who need them the most.

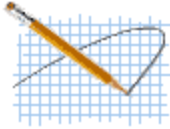
There has been approximately \$330 million dollars annually over the past several years available to support charter schools and their authorizers from the federal government. Hawaii has been limited in applying because it has not robustly encouraged communities to engage in school choice – this is an opportunity for Hawaii to encourage authorizing which comes with it strong accountability measures that will support BOE efforts.

KALO fully supports the administrative rule making process and thanks the BOE for its recent engagement in the charter school sector. As a supporter of Hawaiian focused education models, we also commend the recent work resulting in the implementation of HĀ (Na Hopena A'o). NLN and its Hawaiian focused schools have many lessons learned that can be shared for all public school students in Hawaii.

Na'u ka 'oia'i'o,



Hannah Kihalani Springer,  
President



Susie Osborne <susie@kuaokala.org>

02/18/2016 03:17 PM

To boe\_hawaii@notes.k12.hi.us  
cc  
Subject Administrative draft rules for multiple  
authorizers

Aloha

Please find attached, Kua o ka La Charter School comments on the draft administrative rules for multiple authorizers. Thank you for allowing us to comment.

We would also like to have some hearings on the outer Islands.

Mahalo

Susie Osborne

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[http://help.k12.hi.us/nssb/internal/spam\\_pages/index.html](http://help.k12.hi.us/nssb/internal/spam_pages/index.html)

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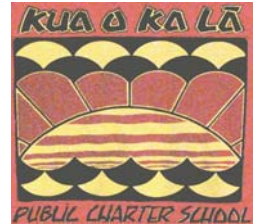
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BOE testimony 2016-1.doc

# *Kua O Ka La PCS*

PO Box 1413 Pāhoa, Hawaii 96778 Tel: 808-965-5098 email: kuaokala@ilhawaii.net



Testimony pertaining to Draft Administrative Rules for multiple Charter School Authorizers

Submitted on behalf of Kua o ka La Charter School

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Aloha Committee Chairperson Patricia Halagao and Board of Education members.

We are so grateful for this opportunity to provide testimony on the draft administrative rules for multiple authorizers. We would also like to thank the Board of Education for the opportunity to hear our concerns via the listening tour.

As I read the document, I am concerned with the overarching stated purpose of Charter Schools and the ‘spirit and intent of charter school law’ being focused on charters existing and evaluated predominately on high academic performance. The document then goes on to quote NASCA pertaining to ‘authorizer hopping’ and NASCA disagreements over the purpose of charter schools. They state that some authorizers or Charters believe that ‘a low performing charter school may still be valuable if it provides a safer learning environment than traditional public school options.’

The document further goes on to say that in order “To mitigate this issue, Subchapter 3 requires the Board to set the purpose of charter schools, based on the spirit and intent of HRS Chapter 302D.”

I ask you, what is the spirit and intent of Hawaii’s Charter Schools? I fear that we are creating a situation of ‘every child left behind’ when our sole focus is on the high academic achievement performance.

Kua o ka La is a perfect example. We started our school for the high at- risk student population which are predominately native Hawaiian, who are not being successful in our current public school system. We are in the ‘Zone of Innovation’ District of Puna, dedicated as such due to our high poverty rate that directly correlates with low academic performance.

This past month alone, we have enrolled 20 students predominately from Pāhoa School due to the amount of violence occurring there and the students not feeling safe. How does one even begin to learn, to grow and improve academically if they do not feel safe? How can school safety not be considered valuable to our public school system and our community parents who now have a choice in schools through the Charter system?

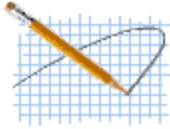
As one of the original founders of the Hawai‘i Charter School movement, I remember clearly that our main purpose was to be research laboratories of educational innovation in order to inform and support our larger public school system as well as providing choice for our community. Many children who come to a hands-on educational opportunity are not necessarily academically successful. Many steps need to occur for that child including engagement, development of skills, feeling safe, and then we see academic growth. Individual student growth is a valid measure, however, the whole child needs to be considered.

I am concerned with the direction of NASCA and the focus of these rules being NASCA driven. There is a shift in the Federal government right now away from the one time test scores as being the sole measure of success for a child and ultimately for a school and the decision of its being able to stay open or closed. This is more aligned with the original intent of the charter school movement, which was in part, to provide alternative learning environments and programs, many of which sought to focus on the whole child, including sense of self and overall quality of life (including happiness).

I would also like to see some flexibility in the timelines for changing authorizers especially in this first wave of creating a new authorizer. Many of us on Hawai'i Island, for many reasons, would like to have a more localized authorizer as soon as possible and would like to see some language inserted to accommodate this initial time. Page 10, item 4 states that an authorizer who has 'initiated a closure of the school shall not be allowed to secure a charter contract from another authorizer'. Given the current climate with our authorizer, I worry about authorizer retaliation and implementing a closure procedure thereby disallowing the school to move into a reasonable authorizer situation. As the document states on page 3, 'the existence of multiple authorizers is supposed to provide a check on the possibility that the lone authorizer in a jurisdiction will become hostile to charter schools or develop undesirable or unchecked behaviors over time. This could include over regulation, biased decision making, or moratoriums on new schools.'

I hope that through these administrative rules, we can proceed to expedite the establishment of new authorizers but with thoughtfulness and open minds to the needs of our Hawai'i specific public school needs and opportunities that Charters can provide.

With great thanks for your dedication and work for the benefit of our community and its being uplifted through education.



William Wilson <wilsonwi@hawaii.edu>

02/18/2016 03:34 PM

To boe\_hawaii@notes.k12.hi.us  
cc  
Subject comments draft charter school  
administrative rules

February 18, 2016

Board of Education

State of Hawai'i

1390 Miller Street, Room 405

Honolulu, Hawaii 96813

Board of Education,

Re: Individual comments on the draft administrative rules for charter schools.

Thank you for the opportunity to provide comments to the draft rules for chartering authorizers.

My comments are generally in support, but within the context of a need for a Hawaiian language medium authorizer that aligns with distinct state and federal legislation. That body of legislation provides for the use of the Hawaiian language as the medium of education, assessment, and communication with participating schools, families, and staff. Furthermore, because Hawaiian is an official language of the state and an official medium of public education, determination of "unsatisfactory performance" by the chartering authorizer must be through assessments through the medium of instruction – Hawaiian - in the case of Hawaiian language medium charter schools.

A Hawaiian language medium authorizer would align with the state's P-12 Hawaiian language medium pathway that bridges into our College, the state's Hawaiian language medium tertiary education entity. Hawai'i is the only state that has a fully implemented a full P-20 pathway through a Native American language consistent with the Native American Languages Act of

1990 (NALA). This national leadership is tied to the fact that Hawai‘i’s own state constitution includes exceptionally strong support for the Hawaiian language and its use, especially by Native Hawaiians.

Other states are looking to follow Hawai‘i’s leadership in Native American language medium education. For example, last year the state of Alaska declared its Native American languages as official. Recently Alaska educators and legislators have invited representatives of our College’s laboratory school program to assist them in establishing specific legislation and policy for Alaska Native language medium charter schools.

Because Hawai‘i is the national leader in Native American language medium education, we cannot depend on copying “national best practice” from some other states in establishing administrative rules. Instead the state of Hawai‘i must develop distinctive administrative rules for Hawaiian language medium charter schools itself.

The matter of administrative rules for charter schools is of distinct importance to me as the Chair of the Academic Programs Division of Ka Haka ‘Ula O Ke‘elikōlani College of Hawaiian Language of the University of Hawai‘i at Hilo. The state law that mandates the existence of our College establishes that we operate a laboratory school program to include Nāwahīokalani‘ōpu‘u School (Nāwahī) and other sites as appropriate. Nāwahī and the three other K-12 laboratory school sites are affected by charter legislation. That law also mandates that our College provide a teacher certification program through Hawaiian and provide curriculum materials and other support to schools taught through Hawaiian or teaching Hawaiian as an academic content area. Therefore, all schools taught through Hawaiian or using materials produced by us, are of concern to us. Essentially this means all charters taught through Hawaiian, all Hawaiian-focused charter schools taught through English and also any other charters that may offer Hawaiian language.

Our College is further designated by the state Hawaiian Language Medium Education law to work collaboratively with the Hawai‘i Department of Education in addressing Hawaiian language medium education in both standard public schools and charter schools.

The current authorizer has been unable to protect the Nāwahī community from an “unsatisfactory performance” determination that is the result of a parent boycott of assessments in a language other than the medium of education. NALA and federal Civil Rights legislation protect the school from unjust assessment through a language other than the medium of education. The

federal government has reached an agreement with the HIDOE to begin the establishment of assessments through Hawaiian. However, such assessments have not yet been completed for any grade, much less the full K-12 range of grades taught through the medium of Hawaiian. The parent boycott continues with the HIDOE and Charter Commission still unjustly publicizing Nāwahī as a “priority school”. Part 8-515-14 (1) of the proposed rules subjects the charter division of Nāwahī to loss of a contract based on the “priority school” designation resulting from the parent boycott of assessment that is not aligned with the medium of education. Continued designation as a “priority school” is a violation of the civil rights of parents, students, and staff at the school.

Discriminatory assessment and assignment of “priority status” under a non-Hawaiian speaking authorizer are not the only reason for establishing a Hawaiian language medium charter school authorizer. Another example of discrimination against Nāwahī is the decision of the current Charter Commission to ignore federal law as expressed in Title III of the Elementary and Secondary Education Act relative to Hawaiian speaking Native Hawaiian children enrolled in Hawaiian language medium charter schools. The Charter Commission has denied Nāwahī Title III funds to serve its federally defined Limited English Proficient/English Learner students (EL) “...because the school is a Hawaiian immersion school.” (Hawaii State Charter School Commission – Annual Report 2015 page 135.) That determination is in violation of Title III, including distinct provisions of education through the medium of Native American languages for EL students. Other discrimination relates to Charter Commission and HIDOE denial of provision of other services through the medium of education, including services required under Title I.

Ka Haka ‘Ula O Ke‘elikōlani was mandated by the state legislature in 1997 to support Hawai‘i’s K-12 Hawaiian medium education system and further develop that system through to graduate education. The College itself is operated and administered through Hawaiian and provides instruction through the medium of Hawaiian for Hawaiian speaking students from the baccalaureate level through to the Ph.D.

The Hawaiian medium education system operated by the HIDOE, charters and Ka Haka ‘Ula O Ke‘elikōlani supports and strengthens education for Hawaiian speaking families choosing a Hawaiian language medium education to fulfill state compulsory education requirements under constitutional protection of parental maintenance of Hawaiian as the primary language of their minor children.

Hawaii State Constitution provides for the establishment, support and control of a statewide system of public schools it includes a number of provisions specific to the Hawaiian language and its heritage including Article X, Section 4 requiring that the study of the Hawaiian language be promoted in the public schools; Article XII, Section 7 reaffirming and protecting traditional and customary Hawaiian rights exercised for various purposes; and Article XV, Section 4 recognizing Hawaiian as an official language of the state.

The Hawai'i State Legislature has enacted a number of Hawaiian language-specific provisions relating to P-12 education that impact charter schools including in 1986, HRS 346-152 (a)(4) and (b) relating to programs for preschool-aged children through Hawaiian; in 1996, HRS 304A 1301-1302 mandating a Hawaiian language college with a laboratory school program; in 2004, HRS 302H establishing Hawaiian language medium education; in 2012, HRS 302L-1.6 (b)(10) requiring a Hawaiian language medium early education representative on the early learning advisory board; in 2013, HRS 346-181 (a)(4) relating to the use of Hawaiian as a medium of education for preschool; and possibly other laws not listed here.

As you well know over the years the Board of Education has also passed a number of policies relating to distinctive standards and programs using and use of the Hawaiian language as the medium of education including updated BOE policies 2104 and 2105 and E-3 and most recently this month BOE policy105.14.

Vision and Mission of the College is: *‘O ka ‘ōlelo ke ka ‘ā o ka maui.* Language is the fiber that binds us to our cultural identity. The mission of the college is first to seek the revitalization of the Hawaiian language and culture. We are the only state entity currently operated and internally administered totally through the state's official Hawaiian language.

The College is currently working collaboratively with many charter schools and would work closely with a Hawaiian language medium authorizer. We could also explore the possibility of applying to be a Hawaiian language medium charter school authorizer ourselves.

Me ka ‘oia‘i‘o,

Dr. William H. Wilson

Chair

Academic Programs Division

Ka Haka 'Ula O Ke'elikōlani College of Hawaiian Language

University of Hawai'i at Hilo

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KULANUI O  
HAWAII MA HILO

Ka Haka 'Ula O Ke'elikelani  
College of Hawaiian Language

<http://www.olelo.hawaii.edu/khuok/>

MOKUNA  
PAPAĀHANA KĀLAI'IKE  
Academic Studies Division

Muapuka  
Undergraduate Programs

Mulipuka  
Graduate Programs

Kula Maui Ola  
Laboratory Schools

Kahuawaiola  
Indigenous Teacher Education Program

MOKUNA  
HALE KUAMO'O  
Hawaiian Language Center Division

Ho'oiikaika Kumu  
Hawaiian Medium Teacher Development

Ho'omohala Ha'awina,  
Lawelawe Papaho & Keleka'a'ike  
Curriculum Development,  
Media and Telecommunication Services

KE'ENA HO'OKELE KOLEKE  
Administrative Office

200 W. KĀWILI STREET  
HILO, HAWAII 96720-4091  
KELEPONA (Phone): (808) 932-7360  
KELEPA'I (Fax): (808) 932-7651

KE KULA 'O  
NĀWAHIOKALANI'OPU'U  
Hawaiian Medium Laboratory School

16-120 'OPŪKAHA'IA ST, SUITE 1  
KEA'AU, HAWAII 96749  
KELEPONA (Phone): (808) 982-4260  
KELEPA'I (Fax): (808) 966-7821

He Mea Hai Ma Ka Papaha  
Kaulike Me Ke Pai Laemāuna

An Equal Opportunity /  
Affirmative Action Institution

February 17, 2016

Board of Education  
State of Hawaii  
1390 Miller Street, Room 405  
Honolulu, Hawaii 96813  
[BOE\\_Hawaii@notes.k12.hi.us](mailto:BOE_Hawaii@notes.k12.hi.us)

Board of Education,

Re: Comments on the draft administrative rules for charter schools.

Thank you for the expeditious and efficient administrative rule making process currently underway for charter schools which we support.

Partnerships for public education are the strength of our charter schools. They have built great relationships with the University of Hawai'i and specifically Ka Haka 'Ula O Ke'elikelani College of Hawaiian Language at the University of Hawai'i Hilo.

Hawai'i's uniqueness because of our Constitution allows a prime collaborative partnership from preschool through college that is seamless and responsive to community. Please ensure the administrative rules finalized honor this uniqueness.

The Hawai'i State Constitution provides for the establishment, support and control of a statewide system of public schools it includes a number of provisions specific to the Hawaiian language and its heritage including Article X, Section 4 requiring that the study of the Hawaiian language be promoted in the public schools; Article XII, Section 7 reaffirming and protecting traditional and customary Hawaiian rights exercised for various purposes; and Article XV, Section 4 recognizing Hawaiian as an official language of the state.

The Hawai'i State Legislature has enacted a number of Hawaiian language-specific provisions relating to P-12 education that impact charter schools including in 1986, HRS 346-152 (a)(4) and (b) relating to programs for preschool-aged children through Hawaiian; in 1996, HRS 304A mandating a Hawaiian language college with a laboratory school program; in 2004, HRS 302H establishing Hawaiian language medium education; in 2012, HRS 302L-1.6 (b)(10) requiring a Hawaiian language medium early education representative on the early learning advisory board; in 2013, HRS 346-181 (a)(4) relating to the use of Hawaiian as a medium of education for preschool; and possibly other laws not listed here.

As you well know over the years the Board of Education has also passed a number of policies relating to distinctive standards and programs using and teaching the Hawaiian language including updated BOE policies 2104 and 2105 and E-3.

Vision and Mission of the College is: *‘O ka ‘ōlelo ke ka ‘ā o ka maui.* Language is the fiber that binds us to our cultural identity. The mission of the college is first to seek the revitalization of the Hawaiian language and culture.

We are currently working collaboratively many charter schools and are very interested and willing to become a charter school authorizer pulling our resources for the betterment of Hawaii’s youth.

Mahalo,

A handwritten signature in black ink, reading "Keiki Kawaiʻaeʻa". The script is fluid and cursive, with the first name "Keiki" and last name "Kawaiʻaeʻa" clearly distinguishable.

Dr. Keiki Kawaiʻaeʻa  
Director, Ka Haka ʻUla O Keʻelikōlani College  
University of Hawaiʻi at Hilo

February 18, 2016

Board of Education  
State of Hawai'i  
1390 Miller Street, Room 405  
Honolulu, Hawai'i 96813

Re: Comments on the draft of administrative rules for charter schools.

Mahalo for this opportunity to provide comments and support on the draft rules for multiple authorizers.

The state of Hawai'i has two official languages, Hawaiian and English. As a laboratory school of Ka Haka 'Ula O Ke'elikōlani College of Hawaiian language at the University of Hawai'i at Hilo, Ke Kula 'O Nāwahīoiani'ōpu'u (Nāwahī) is a Hawaiian language medium school where Hawaiian is the medium of communication. Nāwahī supports the process to establish these administrative rules and bring to your attention specific issues in regards to the Performance Framework and how they have impacted our school negatively in the past.

- 1) Academic Performance: The school has been labeled a Priority school since 2013. This continual determination is based on parents boycotting English language medium testing for their children, who are in fact being educated through Hawaiian. There is no effort on the part of the commission to resolve the issue of language inequity and they continue to label the school as being in the lowest 5% or having "unsatisfactory performance". We propose that there be a change in Subchapter 4 and in all other sections that make reference to "unsatisfactory performance of the authorizer's portfolio."
- 2) Financial Performance: It was determined that the school did not meet the targeted standards for financial performance. We did not meet the three indicators: "enrollment variance, cash flow and change in total fund balance." The enrollment variance of 95% requires that we have a 95% level of accuracy in projecting student enrollment in the new school year. Actually, we projected at a 93.3% level of accuracy. At the end of the day, we will only receive funding for students who are enrolled and we do not get funding for projected enrollment numbers. There was no effort on the part of the commission staff to inquire about whether or not their information was accurate especially since we were only short by 1.7%. In terms of cash flow and change in total fund balance, if the commission staff had inquired, they would have discovered that the governing board had been following proper financial procedures and was aligned with recognized auditing standards. They would have also discovered that the board successfully met their capital campaign and built classrooms for the growing number of students.

The application of the administrative rules must take into consideration the human interaction and not just the mechanical enforcement of the law. Nāwahī is working collaboratively with other charter schools to contribute to the quality of education in Hawai'i. We support this effort and look forward to open communication in assuring that our laws support our success.

Mahalo,

Kauanoë Kamana Ph.D.

Principal/Director, Nāwahīokalani'ōpu'u Laboratory School

Ka Haka 'Ula o Ke'elikōlani College of Hawaiian Language

University of Hawai'i at Hilo

February 18, 2016

Board of Education  
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Board of Education,

Re: FULL SUPPORT of Administrative rules allowing multiple authorizers and oversight for authorizers

Mahalo nui for the opportunity to respond and comment on the proposed Administrative Rules. As the Elementary Principal for Kanu o ka 'Āina NCPCS (KANU) I am committed to our vision, mission and values and see every day how they have transformed education in this community.

The purpose of KANU is to provide students with an equal opportunity to quality education that addresses their distinctive cultural learning style. Our vision is that the community-based learning 'ohana, will be steadfast in cultivating compassionate, empowered, highly competent learners of all ages, grounded in Native Hawaiian culture and language. KANU's mission is to *kūlia i ka nu'u*, or strive for the highest. A philosophy of excellence guides all of us as we collectively design, implement and continuously evaluate a quality, culturally-driven, intergenerational Hawaiian model of education with Aloha.

All leadership, staff and students are expected to live our agreed upon core values:

*Aloha kekahi i kekahi* – Love one another

*Kōkua aku kōkua mai* – Give help and receive help

*Mahalo i ka mea loa'a* – Be thankful for what you have

*Mālama i kou kuleana* – Take care of your responsibilities

I witness KANU's mission, vision and values at work on a daily basis. Students and families feel safe and cared about within our school campus. Two-way partnerships between our school and community organizations are evident through project studies, and educational experiences are strengthened through cultural relevance.

I am very proud of our students and staff. Last school year - 75% of our fourth graders met or exceeded math proficiency on the Smarter Balanced Math Assessment, and 75% met or exceeded science proficiency on the Hawaii State Science Assessment while 60% of these students were of families who were economically disadvantaged. Currently 25% of our entire high school is enrolled in dual credit college courses and 90% of our current senior class has already been accepted to college. I truly believe this is because of the strong foundation we offer



in preschool and elementary, guided by the values and the commitment of all of our stakeholders.

I would appreciate an authorizer that acknowledged our unique success and focused on refining our quality in relation to our mission. Multiple authorizers would allow more intimate knowledge of our approach to education instead of a one-size-fits-all approach. National best practice recommends an authorizer oversee only 10-12 schools.

Thank you for the opportunity to respond and for supporting Hawai'i's charter schools, I feel they add great value to Hawai'i's public education system.

Mahalo nui loa,

Allyson Tamura  
Elementary Principal

EDITH KAWAI  
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February 22, 2016

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Re: Comments on the draft administrative rules for charter schools.

Board of Education,

I am sending this letter to you in support of multiple authorizers as the presence of multiple authorizers can strengthen a state's charter school sector because diversity will promote higher levels of professionalism among authorizers thereby providing checks and balance in charter approval, oversight and renewal decisions.

Thank you for the expeditious and efficient administrative rule making process. Our charter schools are an important asset in our local communities. Addressing these needs in a timely way will allow the authorizers to get right to work for the betterment of the students and families in our local communities.

Here are some points in support of having multiple authorizers:

- States that have the highest quality charter schools have multiple authorizers as evidenced by state test scores and numerous credible research studies.
- States that do not have multiple authorizers create hostile environments for charters.
- Charter schools grow and flourish in environments that provide multiple ways for groups to obtain charters to open schools.
- States that grant universities the ability to charter schools tend to enjoy a robust charter school movement where the resources of higher education are brought to bear on k-12 problems through high standards of accountability, technical support and additional oversight.

<https://www.edreform.com/wp-content/uploads/2012/05/CERPrimerMultipleAuthorizersDec2011.pdf>

- Charter School proponents generally recommend allowing several different institutions to authorize the schools so that different groups can specialize and compete, thus increasing the number and quality of education options open to families.

<http://edexcellence.net/articles/%E2%80%98more%E2%80%99-is-the-operative-word-for-building-a-high-quality-charter-sector>

The following documents offer more information about multiple charter school authorizers.

- **Authorizing Charter Schools**

The National Conference of State Legislatures provides a brief overview of how charter school authorizers work, the comparative advantages and disadvantages of the various entities states allow to authorize charter schools, and components of effective authorizing policies.

- **Charter Public Schools Authorizer's Primer: A Guide for Illinois School Districts**

This primer introduces the basics of Illinois charter schools and charter school authorizing. It explains how districts can benefit from incorporating charters, such as by creating diverse educational portfolios that increase options available to students and families, bringing innovation into public education, and improving student outcomes. It provides step-by-step advice on how to create an effective and efficient authorizing process to help nurture successful new charter schools in local districts.

- **The Importance of Multiple Authorizers in Charter School Laws**

The best charter school laws allow for multiple authorizers because states that do so have more and better charter schools, concludes this policy update from the Center for Education Reform. Allowing multiple authorizers is important because traditional state and local school boards often view charters as hostile competitors and reject their applications not on merit but because of politics and self-interest. The study outlines the experience of 16 states offering multiple authorizers and answers central legal and practical questions.

- **Multiple Charter Authorizing Options**

The presence of multiple authorizers can strengthen a state's charter school sector because this diversity promotes professionalism among authorizers and provides checks and balances in charter approval, oversight, and renewal decisions, states this policy guide from the National Association of Charter School Authorizers. It compares different arrangements for multiple authorizers, lists key considerations on the topic, and presents recommendations for policymakers. These include: allow authorizers that will embrace the chartering role, ensure that authorizers have sufficient resources to do their work, and offer applicants at least two quality authorizer options in any given jurisdiction.

- **High-Stakes: Findings from a National Study of Life-or-Death Decisions by Charter School Authorizers**

The Brookings Institution reviewed the authorization decisions of 50 randomly selected charter school authorizers to draw conclusions about how well authorizers supervise their schools. Bryan C. Hassel and Meagan Batdorff conclude states should allow multiple and

non-district authorizers because quality increases with the number of decisions an authorizer makes and school boards are not likely to make many. School boards are also more likely to make decisions based on politics rather than merit. States also should ensure authorizers have the resources and capacity to do their jobs and ensure transparency of the decision-making process.

- **The State of Charter School Authorizing 2011**

Good implementation of key practices influences whether charter school authorizers approve strong applicants and close underperforming schools, concludes this annual report from the National Association of Charter School Authorizers. It includes an index of essential practices and reviews every state's number and type of charter school authorizers and the school portfolios they hold. Fewer charter schools are being closed for poor performance, and states with multiple authorizers have more charter schools, the report notes.

<https://www.heartland.org/policy-documents/research-commentary-multiple-charter-school-authorizers>

Thank you for your consideration of this worthy effort. I am grateful for your aloha for our children.

Yours sincerely,

A handwritten signature in black ink that reads "Edith Kawai". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

EDITH KAWAI  
ATTORNEY AT LAW