

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

March 15, 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

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.”¹

¹ 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 for recommendation to the Board 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”). 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

(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.”

a public hearing. Board staff set an initial deadline of February 18, 2016 for preliminary comments.

At its last meeting on March 1, 2016, the Committee voted to withdraw its recommendation to the Board that it approve the draft rules based on public comments that suggested amendments or requested the preliminary public comment period be extended. The Committee also voted to approve a revised draft of the rules—which included some changes recommended by the AG, LRB, and ‘Aha Pūnana Leo—to be open for preliminary public comment with an extended formal deadline of March 9, 2016.

II. PRELIMINARY PUBLIC COMMENTS

As of March 9, 2016 extended deadline, five individuals or organizations submitted preliminary comments on the draft administrative rules.² A digest of the comments by commenter is attached as **Exhibit A**. All comments in their entirety are attached as **Exhibit B**. The following is a brief digest of the comments by subject matter.

Three commenters—the Office of Hawaiian Affairs (“OHA”), Kamehameha Schools (“KS”), and Nahelani Webster—request the following specific changes to sections within the draft administrative rules (underlined text added):

- OHA, KS, and Ms. Webster request that HAR §8-515-5(b) be amended to “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, as applicable to local conditions.”
- OHA, KS, and Ms. Webster request that HAR §8-515-15(b) be amended to “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, as applicable to local conditions.”
- OHA and Ms. Webster request that HAR §8-515-16(b)(2) be amended to “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, following the opportunity for public comment.”
- OHA and Ms. Webster request that HAR §8-515-20(3) be amended to “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, following the opportunity for public comment.”
- OHA and Ms. Webster request that HAR §8-517-3(b)(1) be deleted.
- OHA and Ms. Webster request that a new subsection be added to HAR §8-517-3 that states “The current authorizer shall inform the prospective authorizer of all outstanding funds due the charter school, and shall transfer all such funding to the new authorizer within thirty days of approval of the charter transfer.”
- OHA and Ms. Webster request that HAR §8-517-4(e) be amended to “If the charter transfer is not approved, the governing board may withdraw its letter of nonrenewal

² The comments submitted during the original preliminary comment period are not included in this memorandum but can be found in my memorandum to the Committee dated March 1, 2016.

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, unless the Board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate, for unique or extenuating circumstances.”

While less specific, the comments provided by the governing board of Kanu o ka ‘Āina New Century Public Charter School relate to many of the above comments. The governing board requests that the rules:

- Ensure local expertise is included in addition to national expertise;
- Provide protections from authorizer retaliation such as during transfer request proceedings or when a transfer is not approved;
- Provide provisions to cover any lag in execution of a charter transfer by allowing the Board to extend a current charter contract;
- Simplify authorizer transfer processes to allow for expeditious transfers; and
- Provide a provision to ensure funds of a transferring charter school are moved immediately to the new authorizer.

Another commenter observes that the proposed rules appear to more of a policy statement rather than exact procedures or guidelines. The commenter also suggests that the Board consider whether it has the resources to undertake all of the actions required by the rules.

III. SUGGESTED CHANGES

A draft of the administrative rules, as last approved by the Committee, is attached as **Exhibit C** and includes my redlined suggestions for changes. My suggested changes are based on advice from the AG, as well as the preliminary public comments.

My suggestions include most of the specific changes requested by commenters. I did not include the amendment to HAR §8-515-15(b) because one of my suggested changes removes the need for the requested amendment. The other two requested changes that are not included in my revised draft rules, but are comments I would like this Committee to consider, are the deletion of HAR §8-517-3(b)(1) and the addition of a new subsection to HAR §8-517-3.

HAR §8-517-3(b)(1) states, “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[.]” The argument from some commenters for deleting this provision is that it is unnecessary, as the rules provide for sufficient checks and balances to prevent inappropriate charter transfers, including an application process for chartering authority that is rigorous enough to result in high quality authorizers. I note, however, that Executive Director Kunishige’s February 2, 2016 memorandum states that this provision seeks to address the crux of “authorizer hopping” (also known as “authorizer shopping”), which is when a low-performing charter school finds a new authorizer to avoid accountability measures.

With regard to the request to add a provision to HAR §8-517-3 that would require the former authorizer transfer all outstanding funds due to a charter school that transfers to the new authorizer within thirty days of approval of the charter transfer, I recommend further discussions with the Department of Education, the Department of Budget and Finance, and the State Public Charter School Commission. There may be practical difficulties or other unforeseen issues that should be considered. However, this request brings attention to an important issue that deserves further exploration.

The rest of my suggested changes are based on advice from the AG. The suggested changes are described generally below.

Per the AG's earlier comments, I recommend adding specific evaluation criteria for applications for chartering authority to HAR §8-515-5(b). The recommended criteria are based on statutory requirements, specifically in HRS §§302D-4, 302D-5, and 302D-6.

To make it clear that HAR §8-515-6 describes the procedures for applying for chartering authority, I recommend clearly stating so. Also, I recommend adding more detail to the procedures in HAR §8-515-6(b).

Similarly, I recommend making clear the procedures for oversight of authorizers by:

- Adding clarifying language to HAR §8-515-10(a);
- Adding a new subsection to HAR §8-515-10 that describes the areas that the performance evaluation system evaluates, which are identical to the criteria for chartering authority applications in HAR §8-515-5(b) (with the exception of HAR §8-515-5(b)(1), which is only applies to applications for chartering authority based on HRS §302D-4);
- Adding a new section, HAR §8-515-11, that describes the procedures for performance evaluations, one of the tools for oversight of authorizers;
- Adding a new section, HAR §8-515-12, that describes the procedures for special reviews, another tool for oversight of authorizers; and
- Amending HAR §8-515-15(b) to make it clear that the performance of an authorizer whose chartering authority is being considered for renewal shall be determined a performance evaluation, pursuant to HAR §8-515-11.

I recommend another clarifying amendment to HAR §8-515-15(c) to make it clear that HAR §§8-515-16 and 8-515-17 are the renewal procedures for chartering authority.

The AG raised questions about the definition of "current term year" and timing issues in HAR §8-517-5. I recommend clarifying HAR §§8-517-5(d) and 8-517-5(e) by replacing any references to "current term year" with exact deadlines and stating that the letter requesting the transfer and the transfer application are submitted by the same deadline to address these concerns. I also recommend defining "school year" in HAR §§8-517-7.

The AG also had a concern about HAR §8-517-6 and there being an excessive period of time for an "orphaned" charter school to operate without any authorizer oversight. I recommend amending HAR §8-517-6(d) to require the Board to make a final determination on any charter transfer due to the termination of an authorizer's chartering authority within 45 days of the termination but no later than 60 days before the start of the school year.

Throughout the rules, my recommendations also clarify that applicants, authorizers, or whoever is in question has an opportunity to testify and provide public comments in front of the Board whenever there is a public meeting. This is to ensure appropriate due process is provided.

IV. PROMULGATION PROCESS

This Committee will need to approve a draft of the rules to recommend to the Board. 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.

V. RECOMMENDATION

Provided that the Committee agrees with my recommendations and there are no other amendments to the draft administrative rules, I recommend the following motion to the Committee:

“Moved to approve the draft of the proposed Hawaii Administrative Rules Chapters 8-515 and 8-517, as attached to Board Member Jim William’s memorandum dated March 15, 2016, and to recommend the Board approve the proposed rules for a public hearing, pursuant to Hawaii Revised Statutes Chapter 91.”

Exhibit A

Digest of Additional Public Comments on Revised Draft Administrative Rules (as of the extended preliminary comment period deadline of March 9, 2016)

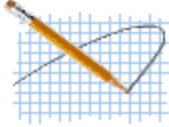
| Commenter | Position | Digested Comments |
|---|-----------------|--|
| Lane Tsuchiyama | Comments | <p>Proposed rules appear to more of a policy statement than exact procedures or guidelines.</p> <p>Board should consider whether it has the resources to undertake the actions required by the rules.</p> |
| Kamana'opono Crabbe, Chief Executive Officer, Office of Hawaiian Affairs | Comments | <p><u>Specific changes requested:</u></p> <p>Amend §8-515-5(b) to: “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, <u>as applicable to local conditions.</u>”</p> <p>Amend §8-515-15(b) to: “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, <u>as applicable to local conditions.</u>”</p> <p>Amend §8-515-16(b)(2) to: “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, <u>following the opportunity for public comment.</u>”</p> <p>Amend §8-515-20(3) to: “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, <u>following the opportunity for public comment.</u>”</p> <p>Delete §8-517-3(b)(1).</p> <p>Include new subsection to §8-517-3 that states: “<u>The current authorizer shall inform the prospective authorizer of all outstanding funds due the charter school, and shall transfer all such funding to the new authorizer within thirty days of approval of the charter transfer.</u>”</p> <p>Amend §8-517-4(e) to: “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, <u>unless the Board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate, for unique or extenuating circumstances.</u>”</p> |
| Ka'ano'i Walk, Senior Policy Analyst, Kamehameha Schools | Comments | <p>Provide an opportunity for the Board to grant an extension for unique or extenuating circumstances as an alternative to school closure in the event that the Board does not grant a charter transfer.</p> |

| Commenter | Position | Digested Comments |
|---|-----------------|--|
| | | <p>Further clarification is needed about whether the draft rules would require a former authorizer to transfer outstanding funds to a new authorizer in the event of a charter transfer.</p> <p><u>Specific changes requested:</u> Amend §8-515-5(b) to: “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, <u>as applicable to local conditions.</u>”</p> <p>Amend §8-515-15(b) to: “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, <u>as applicable to local conditions.</u>”</p> |
| Kanu o ka 'Āina New Century Public Charter School Governing Board | Support process | <p>Ensure local expertise is included in addition to national expertise.</p> <p>Provide protections from authorizer retaliation such as during transfer request proceedings or when a transfer is not approved.</p> <p>Provide provisions to cover any lag in execution of a charter transfer by allowing the Board to extend a current charter contract.</p> <p>Simplify authorizer transfer processes to allow for expeditious transfers.</p> <p>Provide a provision to ensure funds of a transferring charter school are moved immediately to the new authorizer.</p> |
| Nahelani Webster | Comments | <p><u>Specific changes requested:</u> Amend §8-515-5(b) to: “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, <u>as applicable to local conditions.</u>”</p> <p>Amend §8-515-15(b) to: “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, <u>as applicable to local conditions.</u>”</p> <p>Amend §8-515-16(b)(2) to: “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, <u>following the opportunity for public comment.</u>”</p> <p>Amend §8-515-20(3) to: “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, <u>following the opportunity for public comment.</u>”</p> <p>Delete §8-517-3(b)(1).</p> |

| Commenter | Position | Digested Comments |
|-----------|----------|---|
| | | <p>Include new subsection to §8-517-3 that states: <u>“The current authorizer shall inform the prospective authorizer of all outstanding funds due the charter school, and shall transfer all such funding to the new authorizer within thirty days of approval of the charter transfer.”</u></p> <p>Amend §8-517-4(e) to: “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, <u>unless the Board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate, for unique or extenuating circumstances.</u>”</p> |

Exhibit B

Preliminary public comments on draft administrative rules (as of March 9, 2016)



Lane Tsuchiyama <dirmt@hotmail.com>

03/08/2016 09:54 AM

To "boe_hawaii@notes.k12.hi.us"
<boe_hawaii@notes.k12.hi.us>

cc

Subject Comments with respect to Haw.
Admin. Rules Chapters 8-515 and
8-517 as proposed

To the Honorable Members of the Board of Education, State of Hawaii:

Having reviewed the Board's proposal to adopt a set of rules by which the Board will pursue a process to authorize additional charter school authorizers in the State, I note that the rules, as proposed, appear to be more of a policy statement that elaborates what the Board will undertake to facilitate the authorization of new charter school authorizers in the future rather than setting forth exact procedures and guidelines to direct the process of authorizing new charter school authorizers in the State on a going-forward basis. In pursuing the direction of authorizing new charter school authorizers in the future, the Board should be mindful that authorizing new charter school authorizers in the State means that the Board must oversee such authorizers consistent with Hawaii Revised Statutes ("HRS") Chapter 302D. Far from being an activity that would require a slight allocation of time and attention on the part of the Board and its staff in the future, oversight of the new charter school authorizers authorized by the Board would at least encompass a periodic check of the charter school authorizers so that the Board is assured that the new charter school authorizers are carrying out their functions as authorized by the Board. This is in addition to the extra work that would be created to negotiate and execute a new charter school authorizing contract consistent with HRS Section 302D-4(g) each time the Board authorizes a new charter school authorizer in the State. (See e.g., HRS Section 302D-4(g), providing that, within 60 days of the Board's decision, the Board shall execute a renewable authorizing contract with an approved chartering authority in the State.) Whether the Board has the resources to undertake such actions more than a few times when the Board has a means of overseeing charter school authorization directly through the Commission (the Hawaii Public Charter School Commission) it appoints currently is something the Board must consider as it moves forward on this path of authorizing new charter school authorizers in the future.

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

March 9, 2016

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

RE: Draft Administrative Rules That Would Provide For Multiple Authorizers

Aloha mai e Chair Mizumoto:

The Administration of the Office of Hawaiian Affairs (OHA) appreciates the opportunity to submit comments in response to the Hawai'i State Board of Education's (Board) invitation to review preliminary proposed administrative rules that would allow for multiple charter school authorizers. OHA is an interested partner in Hawai'i's public charter school system since, among other reasons, 17 of the 34 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 extends its deep appreciation to the Board, the Student Achievement Committee, and the Board's staff for your commitment to Hawai'i's public charter school movement, your dedication to the communities and families served by our public charter schools, and the extensive work that has been invested in the proposed administrative rules. We respectfully offer the following comments for your consideration.

1. Use of Local Conditions in the Application and Renewal Process

OHA recommends that proposed HAR § 8-515-5(b) (Applications generally) and proposed HAR § 8-515-15(b) (Applications for chartering authority renewal) be revised to include the phrase "as applicable to local conditions." This language can also be found with the proposed HAR § 8-515-10 (Performance evaluation system), which acknowledges the relevance of local conditions to the Board's performance evaluation of chartering authorities. These amendments would ensure that the Board's review of applications for charter authorizing, renewals of chartering

authorities, and performance evaluations of charter authorizers, all consistently “apply nationally recognized principles and standards for quality charter authorizing, as applicable to local conditions.”

Accordingly, OHA recommends that the proposed rule language in HAR § 8-515-5(b) be revised to read as follows (new language is underscored):

“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 as applicable to local conditions. At a minimum, the policies, criteria, or guidelines included in the application form shall be evaluated in the following areas:”

Furthermore, OHA recommends that the proposed rule language in HAR § 8-515-15(b) be revised to read as follows (new language is underscored):

“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 as applicable to local conditions.”

2. Opportunity for Public Comment in the Chartering Authority Nonrenewal and Revocation Process

OHA understands that the Board is not statutorily required to hold a hearing on the nonrenewal and revocation of a chartering authority that allows for representation by counsel and the right to call witnesses. However, OHA notes that the nonrenewal or revocation of an authorizer’s chartering authority would have serious consequences for charter schools in the authorizer’s portfolio. Therefore, OHA recommends that the administrative rules for these processes provide for public comment similar to that provided in proposed HAR § 8-515-6(b)(5) (Application and approval process), to be consistent with public comment processes for any other major decision relating to a charter school or an authorizer.

In this regard, OHA recommends that the proposed rule language in HAR § 8-515-16(b)(2) be revised to read as follows (new language is underscored):

“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, following the opportunity for public comment.”

For the same reason, OHA recommends that the proposed rule language in HAR § 8-515-20(3) be revised to read as follows (new language is underscored):

“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, following the opportunity for public comment.”

3. Charter Contract Transfers

A number of legitimate reasons may exist for charter schools to transfer from one authorizer to another based on the best interests of their students, including: (1) an authorizer no longer has the capacity or commitment to carry out its authorizing duties; (2) a charter school believes its vision and purposes are better suited to another authorizer; (3) a charter school believes that closer proximity to its authorizer will result in better access and less expense; (4) an authorizer lacks sufficient knowledge or familiarity with an individual charter school because of the size of the authorizer's portfolio.

This is consistent with a report published by the National Alliance for Public Charter Schools, which noted:

In some situations, it makes sense for a public charter school to transfer its contract from one authorizer to another before the expiration of the term, especially when its current authorizer has decided that it no longer has the commitment or capacity to effectively perform its authorizing duties.

OHA notes that HRS § 302D-20(a), which governs charter transfers and upon which the proposed rules on charter transfers are based, draws verbatim from the National Alliance's model law.

A. Recommendation that Proposed HAR § 8-517-3(b)(1) be Deleted

In light of the potential legitimate reasons for charter schools transferring between authorizers, OHA is concerned with what appears to be an over-emphasis on perceived “authorizer hopping.” OHA notes that the application process for chartering authority is itself rigorous and will result in highly-competent authorizers from a qualified pool of state, county, university, and nonprofit agencies, and that the proposed rules provide sufficient checks and balances to prevent inappropriate charter transfers. Accordingly, OHA respectfully submits that proposed HAR § 8-517-3(b)(1), which would prevent charter schools from transferring to a different 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[.]” is not necessary and should be deleted.

B. Recommendation that Proposed HAR § 8-517-4 be Revised to Grant an Extension for "unique or extenuating circumstances"

Additionally, OHA recommends that proposed HAR § 8-517-4 be revised to allow the Board to grant a temporary charter contract extension to charter schools who have applied to transfer to a different authorizer, to prevent closure if there are "unique or extenuating circumstances." The proposed HAR § 8-517-4 applies to charter transfers at the end of a charter contract term. As drafted, the transfer of a charter contract in its final contract year is only allowed if the charter school's governing board has met the terms of its expiring charter contract with its current authorizer, an application is submitted by the charter school and the proposed authorizer, and the Board approves of the charter transfer. The Board is required to make a final determination on an application no later than sixty days before the expiration of the current charter contract. In the event the charter transfer is not approved, the proposed rule allows the charter school's governing board to proceed with the current authorizer's contract renewal process and enter into a new charter contract; otherwise, the charter school shall close in accordance with applicable law and the terms of the charter contract. To the extent that the Board's decision to disapprove a charter transfer sixty days prior to the expiration of the current charter contract may not provide a charter school and its original authorizer sufficient time to complete the contract renewal and contract execution process, OHA respectfully recommends that this section be revised to allow a temporary extension of the expiring contract due to unique or extenuating circumstances, as follows (new language is underscored):

"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, unless the Board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate, for unique or extenuating circumstances."

C. Transfer of Outstanding Funds from Current/Former Authorizer to New Authorizer

Recognizing that there may be instances where a charter transfer is approved but outstanding funds owed to the charter school are not likewise transferred, OHA respectfully recommends that the proposed charter transfer process expressly require the transfer of all outstanding funds owed to a charter school from the current/former authorizer to the new authorizer, to fulfill the intended purpose of such funding. This may be done by revising proposed HAR § 8-517-3, to include a new subsection to read:

"The current authorizer shall inform the prospective authorizer of all outstanding funds due the charter school, and shall transfer all such funding to the new authorizer within thirty days of approval of the charter transfer."


Chair Lance A. Mizumoto, Hawai'i State Board of Education

March 8, 2016

Page 5

Mahalo nui loa for the opportunity to provide preliminary comments in advance of HRS Chapter 91 public hearings on the proposed administrative rules that would allow for multiple charter school authorizers. 'A'ohē 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,


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

KMC:mm



KAMEHAMEHA SCHOOLS®

March 9, 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 comments 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 to you all.

The Hawai'i State Public Charter School Commission has publicly stated that it is operating at capacity with its oversight responsibilities as to the current number of charter schools. We also observe that schools may have characteristics, student or community demographics, curriculum focus or other elements that make them more suited to an authorizer in tune with their needs. We support policies that promote high academic, financial and organizational standards for Hawai'i's charter schools, and the establishment of an alternative authorizer, we believe, would promote such standards. Therefore, we take this opportunity to **comment** on the BOE's revised draft of the administrative rules that would allow for multiple charter school authorizers.

We appreciate and support 'Aha Pūnana Leo's request in their preliminary testimony that HAR §8-515-10(a)(2) be amended to acknowledge local conditions. We would request that this acknowledgement be extended to HAR §8-515-5(b) and HAR §8-515-15(b) through amendments adding “, as applicable to local conditions” after the phrase “nationally recognized principles and standards for quality authorizing.” These amendments will help ensure that the rules honor the uniqueness of Hawai'i's charter schools and not depend solely on national best practices.

We note that the draft administrative rules do not provide an opportunity for the Board to grant an extension for unique or extenuating circumstances as an alternative to school closure in the event that the Board does not grant a charter transfer. The fear of retaliation in the form of uneven application of rules which has been expressed by some vocal charter schools is a potentially significant concern for schools which petition to leave their current authorizer, are denied, and are required to return to the first authorizer or face school closure. That is to say, a perceived threat of retaliation is itself a concern.

We also note that further clarification is needed about whether the draft rules would require a former authorizer to transfer outstanding funds to a new authorizer in the event of a charter transfer.

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. Kamehameha Schools has 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 our families and ultimately enhance both academic achievement and engagement for students. 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 mau kākou i ka nu'u! Let's constantly strive for the summit.

Mahalo a nui.

March 9, 2016

Board of Education
State of Hawaii
1390 Miller Street, Room 405
Honolulu, Hawaii 96813
BOE_Hawaii@notes.k12.hi.us

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

Board of Education,

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

We would appreciate refinement of the draft rules to address the following:

1. Ensure **local expertise** is also included and valued as much as national expertise – specifically for unique Hawaii issues, for example one unified SEA/LEA and Hawaiian Culture and Language.
2. Provide **protections from authorizer retaliation**. For example retaliation could occur during transfer request proceedings or when a transfer is not approved and the school must remain with the original authorizer.
3. Provide provisions to **cover any lag in execution** of new authorizer transfer by giving the BOE authority to extend a current charter school contract. For example, if a lag in execution occurs because of paperwork technicalities and the school has no authorizer deeming them unchartered for a period, the following could occur; automatic school closure, missing per pupil funding deadlines required by the legislature, or school employees suffering a break in service impacting their retirement and medical benefits.
4. **Simplify authorizer transfer processes** so when a new authorizer is approved that is more appropriate and aligned to a school mission, for example geographic authorizers or expert language authorizers, schools can transfer expeditiously.
5. Add a provision to ensure **funds of a transferring charter school** are moved immediately to the new authorizer. Any delay in schools receiving funding could impact daily operations and/or financial reporting.



Items 3 and 5 above are critical to the survival of the schools and will impact legislative funding if the proper language and BOE empowerments are not clarified.

Kanu's new campus on Hawaii island is available to the BOE for community meetings if desired.

Mahalo piha,

A handwritten signature in cursive script that reads 'Taffi Wise'.

Taffi Wise on behalf of Kanu Governing Board

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

Nahelani Webster
nahelani@gmail.com

March 9th, 2016

SENT VIA ELECTRONIC MAIL: boe_hawaii@notes.k12.us

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

RE: Draft Administrative Rules That Would Provide For Multiple Authorizers

Aloha Chair Mizumoto,

Mahalo for the opportunity to submit public comments in response to the Hawai'i State Board of Education's (Board) invitation to review preliminary proposed administrative rules that would allow for multiple charter school authorizers. Respectfully offer the following comments for your consideration.

1. Use of Local Conditions in the Application and Renewal Process

Recommendation that proposed HAR § 8-515-5(b) (Applications generally) and proposed HAR § 8-515-15(b) (Applications for chartering authority renewal) be revised to include the phrase "as applicable to local conditions." This language can also be found with the proposed HAR § 8-515-10 (Performance evaluation system), which acknowledges the relevance of local conditions to the Board's performance evaluation of chartering authorities. These amendments would ensure that the Board's review of applications for charter authorizing, renewals of chartering authorities, and performance evaluations of charter authorizers, all consistently "apply nationally recognized principles and standards for quality charter authorizing, as applicable to local conditions."

Recommends that the proposed rule language in HAR § 8-515-5(b) be revised to read as follows (new language is underscored):

"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 as applicable to local conditions. At a minimum, the policies, criteria, or guidelines included in the application form shall be evaluated in the following areas:"

Furthermore, recommendation that the proposed rule language in HAR § 8-515-15(b) be revised to read as follows (new language is underscored):

“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 as applicable to local conditions.”

2. Opportunity for Public Comment in the Chartering Authority Nonrenewal and Revocation Process

Understanding that the Board is not statutorily required to hold a hearing on the nonrenewal and revocation of a chartering authority that allows for representation by counsel and the right to call witnesses. Noting that the nonrenewal or revocation of an authorizer’s chartering authority would have serious consequences for charter schools in the authorizer’s portfolio. Therefore, recommending that the administrative rules for these processes provide for public comment similar to that provided in proposed HAR § 8-515-6(b)(5) (Application and approval process), to be consistent with public comment processes for any other major decision relating to a charter school or an authorizer.

In this regard, recommending that the proposed rule language in HAR § 8-515-16(b)(2) be revised to read as follows (new language is underscored): “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, following the opportunity for public comment.”

For the same reason, recommending that the proposed rule language in HAR § 8-515-20(3) be revised to read as follows (new language is underscored):

“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, following the opportunity for public comment.”

3. Charter Contract Transfers

A number of legitimate reasons may exist for charter schools to transfer from one authorizer to another based on the best interests of their students, including: (1) an authorizer no longer has the capacity or commitment to carry out its authorizing duties; (2) a charter school believes its vision and purposes are better suited to another authorizer; (3) a charter school believes that closer proximity to its authorizer will result in better access and less expense; (4) an authorizer lacks sufficient knowledge or familiarity with an individual charter school because of the size of the authorizer’s portfolio.

This is consistent with a report published by the National Alliance for Public Charter Schools, which noted:

In some situations, it makes sense for a public charter school to transfer its contract from one authorizer to another before the expiration of the term, especially when its current authorizer has decided that it no longer has the commitment or capacity to effectively perform its authorizing

duties. Noting that HRS § 302D-20(a), which governs charter transfers and upon which the proposed rules on charter transfers are based, draws verbatim from the National Alliance’s model law.

A. Recommendation that Proposed HAR § 8-517-3(b)(1) be Deleted

In light of the potential legitimate reasons for charter schools transferring between authorizers, There is a concern with what appears to be an over-emphasis on perceived “authorizer hopping.” Noting that the application process for chartering authority is itself rigorous and will result in highly-competent authorizers from a qualified pool of state, county, university, and nonprofit agencies, and that the proposed rules provide sufficient checks and balances to prevent inappropriate charter transfers. Respectfully proposing HAR § 8-517-3(b)(1), which would prevent charter schools from transferring to a different 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[,]” is not necessary and should be deleted.

B. Recommendation that Proposed HAR § 8-517-4 be Revised to Grant an Extension for “unique or extenuating circumstances”

Additionally, recommending that proposed HAR § 8-517-4 be revised to allow the Board to grant a temporary charter contract extension to charter schools who have applied to transfer to a different authorizer, to prevent closure if there are “unique or extenuating circumstances.” The proposed HAR § 8-517-4 applies to charter transfers at the end of a charter contract term. As drafted, the transfer of a charter contract in its final contract year is only allowed if the charter school’s governing board has met the terms of its expiring charter contract with its current authorizer, an application is submitted by the charter school and the proposed authorizer, and the Board approves of the charter transfer. The Board is required to make a final determination on an application no later than sixty days before the expiration of the current charter contract. In the event the charter transfer is not approved, the proposed rule allows the charter school’s governing board to proceed with the current authorizer’s contract renewal process and enter into a new charter contract; otherwise, the charter school shall close in accordance with applicable law and the terms of the charter contract. To the extent that the Board’s decision to disapprove a charter transfer sixty days prior to the expiration of the current charter contract may not provide a charter school and its original authorizer sufficient time to complete the contract renewal and contract execution process. Respectfully recommending that this section be revised to allow a temporary extension of the expiring contract due to unique or extenuating circumstances, as follows (new language is underscored):

“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 nonrenewal, and the charter school shall close in accordance with applicable law and the terms of the charter contract, unless the Board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate for unique or extenuating circumstances.”

C. Transfer of Outstanding Funds from Current/Former Authorizer to New Authorizer

Recognizing that there may be instances where a charter transfer is approved but outstanding funds owed to the charter school are not likewise transferred, respectfully recommending that the proposed charter transfer process expressly require the transfer of all outstanding funds owed to a charter school from the current/former authorizer to the new authorizer, to fulfill the intended purpose of such funding. This may be done by revising proposed HAR § 8-517-3, to include a new subsection to read:

“The current authorizer shall inform the prospective authorizer of all outstanding funds due the charter school, and shall transfer all such funding to the new authorizer within thirty days of approval of the charter transfer.”

Mahalo for the opportunity to provide preliminary comments in advance of HRS Chapter 91 public hearings on the proposed administrative rules that would allow for multiple charter school authorizers.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nahelani Webster', written in a cursive style.

Nahelani Webster

Exhibit C

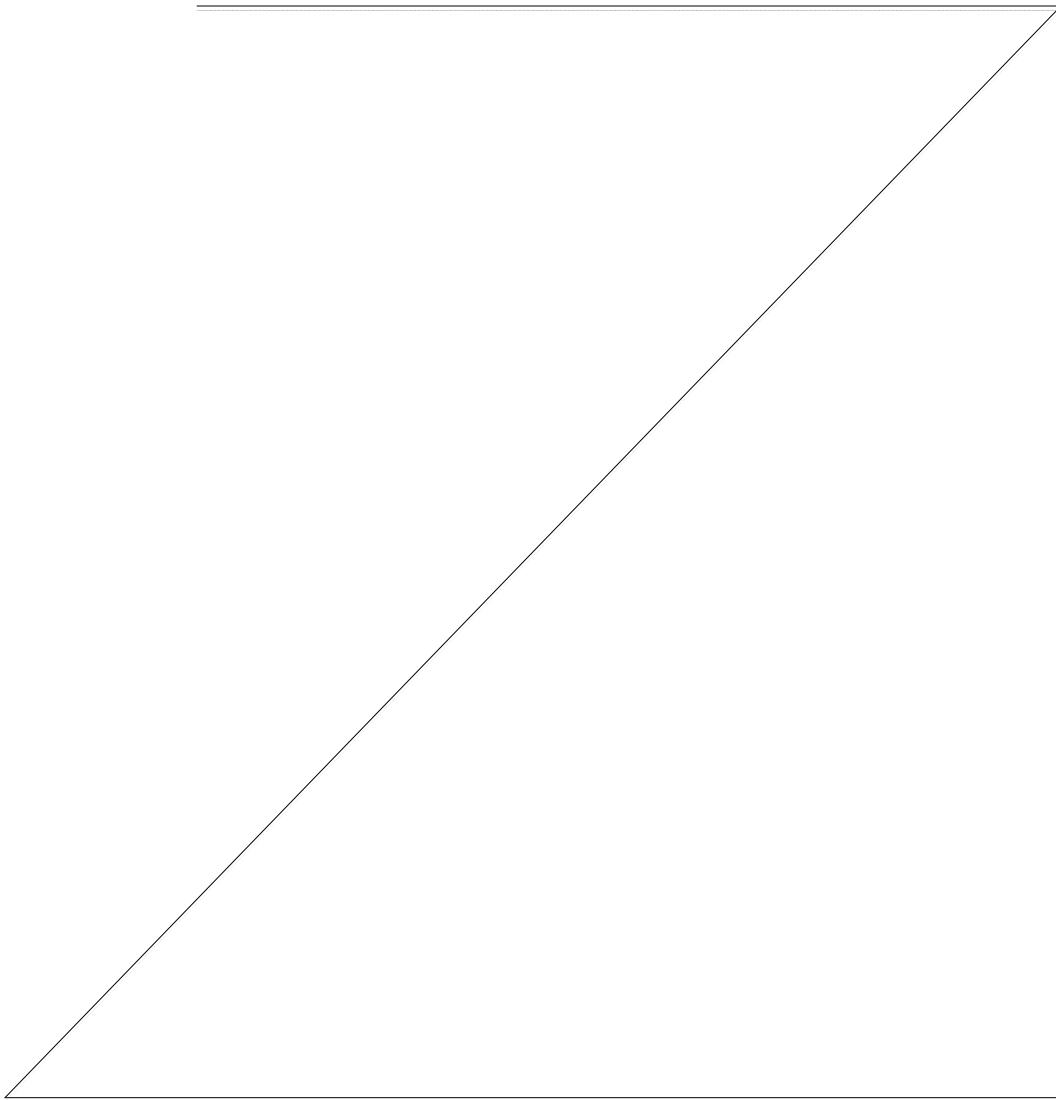
Draft of proposed Hawaii Administrative Rules Chapter 8-515, entitled “Establishment and Oversight of Charter School Authorizers,” and Chapter 8-517, entitled “Charter Contract Transfers” (Ramseyer format), as approved by the Student Achievement Committee on March 1, 2016 with redlined suggestions from Board Member Jim Williams based on preliminary public comments and advice from the Department of the Attorney General

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:



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"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 procedure
- §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 Performance evaluations
- §8-515-12 Special reviews
- §8-515-13~~1~~ 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, as applicable to local conditions. At a minimum, the policies, criteria, or guidelines included in the application form shall be evaluated in the following areas:

- (1) [Area #1] Satisfactory responses to elements of the application for chartering authority, including responses that clearly explain or present:
 - (A) The applicant's strategic vision for chartering;
 - (B) A plan to support the vision presented, including an explanation and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of a quality authorizer, in accordance with chapter 302D, Hawaii Revised Statutes;
 - (C) A draft or preliminary outline of the request for proposals that the applicant, if approved as an authorizer, would issue to solicit charter school applicants;
 - (D) A draft of the performance framework that the applicant, if approved as an

- authorizer, would use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter schools, consistent with the requirements of chapter 302D, Hawaii Revised Statutes;
- (E) A draft of the applicant's renewal, revocation, and nonrenewal processes, consistent with section 302D-18, Hawaii Revised Statutes;
- (F) A statement of assurance that the applicant seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of chapter 302D, Hawaii Revised Statutes, and that if approved as an authorizer, the applicant will fully participate in any authorizer training provided or required by the State; and
- (G) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;
- (2) ~~[Area #2]~~ Organizational capacity and infrastructure;
- (3) ~~[Area #3]~~ Financial capacity to fulfill the responsibilities of a quality authorizer;
- (4) Authorizer responsibilities relating to charter applications, including:
 - (A) Soliciting and evaluating charter applications;
 - (B) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices; and
 - (C) Declining to approve weak or inadequate charter applications;
- (5) Performance contracting, including negotiating and executing sound charter

- contracts with each approved charter applicant and with existing charter schools;
- (6) Ongoing charter school oversight, evaluation, renewal processes, including:
 - (A) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools; and
 - (B) Determining whether each charter contract merits renewal, nonrenewal, or revocation; and
- (7) Fulfillment of the duties of an authorizer, including:
 - (A) Acting as a point of contact between the department of education and the authorizer's charter schools;
 - (B) Being responsible for and ensuring the compliance of the authorizer's charter schools with all applicable state and federal laws, including reporting requirements;
 - (C) Being responsible for the receipt of applicable federal funds from the department of education and the distribution of funds to the authorizer's charter schools; and
 - (D) Being responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the authorizer's charter schools.

(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 procedure. (a) The annual application and

approval cycle for chartering authority shall be no longer than twelve months.

(b) The application and approval ~~process procedure 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 review of the notice of intent to apply by the board to determine eligibility, and notification by the board to the interested entity of its eligibility to submit an application for chartering authority;
- ~~(23)~~ The timely submission of a completed application for chartering authority to the board;
- ~~(34)~~ The timely review of the application by the board for completeness, and notification by the board to the applicant that the application is complete or incomplete;
- ~~(5)~~ If board deems the application incomplete, an opportunity for the applicant to make corrections and submit a completed applications; provided that corrections are made expeditiously and no wholesale changes to the application are made;
- ~~(46)~~ 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;
- ~~(57)~~ An opportunity in a public forum for the public, including the applicant, to provide input on each application for chartering authority; ~~and~~
- ~~(8)~~ Following the review and evaluation of an application for chartering authority by qualified persons, issuance of a written report by the evaluators with a

recommendation to either approve or deny the application;

(9) An opportunity for the applicant to submit a written response to the written report from the evaluators, and an opportunity for the evaluators to rebut, in writing, the applicant's written response, if applicable;

(610) Following the review and evaluation of an application for chartering authority, the written report, response, and rebuttal, as applicable, 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 section 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 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 nonprofit 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 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 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.

(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 using the procedures described in section 8-515-11 and 8-515-12. 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, as applicable to local conditions, in assessing performance; and
 - ~~_(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. ;
 - ~~(5) Include and provide for mechanisms for initiating and conducting a special review of an authorizer or the commission pursuant to section 302D-11(e), Hawaii Revised Statutes.~~

(b) The performance evaluation system shall clearly set forth performance indicators, measures, and metrics that will guide the board's evaluations and reviews of each authorizer and the commission. At a minimum, the performance indicators, measures, and metrics included in the performance evaluation system shall evaluate the following areas:

- (1) Organizational capacity and infrastructure;
- (2) Financial capacity to fulfill the responsibilities of a quality authorizer;
- (3) Authorizer responsibilities relating to charter applications, including:
 - (A) Soliciting and evaluating charter applications;
 - (B) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices; and
 - (C) Declining to approve weak or inadequate charter applications;
- (4) Performance contracting, including negotiating and executing sound charter contracts with each approved charter applicant and with existing charter schools;

- (5) Ongoing charter school oversight, evaluation, renewal processes, including:
 - (A) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools; and
 - (B) Determining whether each charter contract merits renewal, nonrenewal, or revocation; and
- (6) Fulfillment of the duties of an authorizer, including:
 - (A) Acting as a point of contact between the department of education and the authorizer's charter schools;
 - (B) Being responsible for and ensuring the compliance of the authorizer's charter schools with all applicable state and federal laws, including reporting requirements;
 - (C) Being responsible for the receipt of applicable federal funds from the department of education and the distribution of funds to the authorizer's charter schools; and
 - (D) Being responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the authorizer's charter schools.

(bc) 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 Performance evaluations. (a) Any performance evaluation of an authorizer shall use all performance indicators, measures, and metrics set forth in the performance evaluation system pursuant to section 8-515-10.

(b) The board shall develop a response form for performance evaluations, which shall be made available

to each authorizer who will be evaluated at least ninety days prior to the performance evaluation response being due. The performance evaluation response form shall also include a description of the performance evaluation process, the performance evaluation processing schedule, and the performance indicators, measures, and metrics set forth in the performance evaluation system pursuant to section 8-515-10.

(c) The performance evaluation shall provide for and include the following:

- (1) At least ninety days prior to the performance evaluation response being due, a written notice from the board notifying the authorizer a performance evaluation will be conducted;
- (2) The timely submission of a completed performance evaluation response to the board;
- (3) Upon receipt of a completed performance evaluation response, the review and evaluation of the authorizer by qualified persons;
- (4) An in-person interview with representatives from the authorizer;
- (5) A survey or interview of representatives from charter schools within the authorizer's portfolio of charter schools;
- (6) An opportunity in a public forum for the public, including the authorizer, to provide input on each authorizer being evaluated;
- (7) Following the review and evaluation of the authorizer by qualified persons, issuance of a draft of the written report by the evaluators to the authorizer, and an opportunity for the authorizer to provide written comments on the draft of the written performance evaluation report; and
- (8) Approval of the final draft of the written performance evaluation report by the board, and transmittal of the report to the authorizer.

(d) The performance evaluation report shall include an overall rating of the authorizer, and shall be published on the board's website. The performance evaluation report may be used as the performance report, pursuant to section 8-515-16, or may serve as a notice of noncompliance pursuant to section 8-515-13.

(e) The board shall conduct a performance evaluation of each authorizer no less than every five years.

(f) For the purposes of this section, "authorizer" also means the commission.

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

§8-515-12 Special reviews. (a) The board may conduct a special review of an authorizer using some or all of the performance indicators, measures, and metrics set forth in the performance evaluation system pursuant to section 8-515-10 for the following reasons:

- (1) Persistently unsatisfactory performance of the authorizer's portfolio of charter schools;
- (2) A pattern of well-founded complaints about the authorizer or its charter schools; or
- (3) Other objective circumstances.

(b) The board shall determine whether a special review of an authorizer is warranted on a case-by-case basis. If the board determines a special review is warranted, the board may opt to conduct a performance evaluation pursuant to section 8-515-11 instead of a special review pursuant to subsection (c).

(c) The special review shall provide for and include the following:

- (1) At least thirty days prior to the any requested documentation being due, a written notice from the board notifying the authorizer a special review will be conducted, describing the reason for the

- review, and identifying the areas to be reviewed;
- (2) The timely submission of any documentation requested by the board which may include responses to parts of the performance evaluation response form pursuant to section 8-515-11(b);
 - (3) Upon receipt of the requested documentation, the review and evaluation of the identified areas by qualified persons;
 - (4) Following the review and evaluation of the identified areas by qualified persons, issuance of a draft of the written report by the reviewers to the authorizer, and an opportunity for the authorizer to provide written comments on the draft of the written special review report; and
 - (5) Approval of the final draft of the written special review report by the board, and transmittal of the report to the authorizer.
- (d) The special review may also provide for and include the following:
- (1) An in-person interview with representatives from the authorizer;
 - (2) Surveys or interviews of representatives from charter schools within the authorizer's portfolio of charter schools;
 - (3) An opportunity in a public forum for the public, including the authorizer, to provide input on the authorizer being reviewed;
- (e) The special review report shall be published on the board's website, and may serve as a notice of noncompliance pursuant to section 8-515-13.
- (f) For the purposes of this section, "authorizer" also means the commission.
- [Eff _____] (Auth: HRS §302A-1112) (Imp: HRS §302D-11)

~~§8-515-13~~ 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 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 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, an authorizer's performance shall be determined by a performance evaluation using the performance evaluation system, and nationally recognized principles and standards for quality charter authorizing pursuant to section 8-515-11.~~

(c) An authorizer seeking renewal shall submit a renewal application to the board pursuant to the renewal procedures in sections 8-515-16 and 8-515-17, and 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, following the opportunity for public comment.

(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 section 302D-11(c), Hawaii Revised Statutes, and section 8-515-1~~3~~ 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, following the opportunity for public comment. [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 a 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.

"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 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 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, unless the board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate, for unique or extenuating circumstances. [Eff]
(Auth: HRS §302A-1112) (Imp: HRS §§302D-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.

(c) 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.

(d) 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~~May 1;
provided further that the letter requesting the
transfer and the charter transfer application are
submitted by February 1 of the same school year.

(e) 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~~July 1 of the next school year. 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 established 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 within forty-five days of the termination the former authorizer's chartering authority but no later than ninety-sixty 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. (a) 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.

(b) For the purposes of this chapter, "school year" means a year that begins on July 1 and ends on June 30 of the following calendar year. [Eff] (Auth: HRS §302A-1112) (Imp: HRS §91-2)

3. The adoption of chapters 8-515 and 8-517, 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 _____, 20____, and filed with the Office of the Lieutenant Governor.

Chairperson, Board of
Education

APPROVED AS TO FORM:

Deputy Attorney General