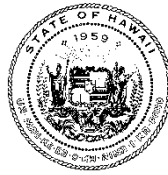


DAVID Y. IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

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

May 2, 2019

TO: Board of Education

FROM: Catherine Payne
Chairperson, Ad Hoc Committee on 2019 Legislative Session

AGENDA ITEM: Update on Ad Hoc Committee (a permitted interaction group pursuant to Hawaii Revised Statutes, Section 92-2.5(b)(2)) concerning 2019 Legislative Session: legislative conference and results of session

I will provide an oral report on the 2019 Legislative Session Ad Hoc Committee's activities since my last report on April 4, 2019 and the results of the 2019 Legislative Session. The list below is of the legislative measures on which the committee submitted comments to the respective conference committees and is current as of April 26, 2019. Copies of the comments submitted by the committee are attached to this memorandum as **Exhibit A**.

Conference Committee on HB407 HD1 SD1

House Conferees: Co-Chairs Woodson and Nishimoto; Representatives Hashimoto, Ohno, Tarnas, and Okimoto

Senate Conferees: Chair Kidani; Co-Chair Kanuha; Senator Fevella

Measure Description: Requires board of education approval prior to the termination of a complex area superintendent. Effective 7/1/2050.

Conference Committee on HB622 HD1 SD1

House Conferees: Co-Chairs Woodson and Luke; Representatives Cullen, Hashem, Matayoshi, Tarnas, and Okimoto

Senate Conferees: Chair Kidani; Co-Chair Kanuha; Senator Fevella

Measure Description: Transfers control of public funds disbursed to a charter school to the State Public Charter School Commission upon filing of criminal charges against an employee of the charter school for actions taken in the course of employment at the charter school. Requires establishment of a banking account system to pay charter school expenses. Requires authorizers to select the independent auditors. Prohibits individuals from serving as Board of Education or Charter School Commission members if the individual was affiliated with a charter school within four years preceding appointment. Effective 7/1/2050.

Conference Committee on SB383 SD2 HD1

House Conferees: Co-Chairs Woodson, Mizuno, and Kitagawa; Representative Okimoto

Senate Conferees: Chair Kidani; Co-Chairs Ruderman, Baker, and Kanuha; Senator Fevella

Measure Description: Requires DOE to establish a mandatory youth suicide awareness and prevention training program and model risk referral protocol, based on existing materials created by DOH, for all public schools, including charter schools. Requires charter schools to

provide the training program and risk referral protocol to all school personnel who work directly with students in department schools and charter schools, respectively.

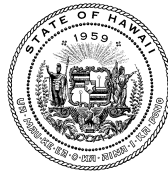
Conference Committee on SB592 SD1 HD2

House Conferees: Co-Chairs Eli, Woodson, and Cullen; Representatives Hashem and Matsumoto

Senate Conferees: Chair Kidani; Co-Chair Kanuha; Senator Fevella

Measure Description: Updates the State Librarian's salary cap.

Exhibit A
Letters to Conference Committees



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

April 22, 2019

Conference Committee on House Bill 407, House Draft 1, Senate Draft 1, Relating to Education

Dear Chair Kidani; Co-Chairs Woodson and Nishimoto; Representatives Hashimoto, Ohno, Tarnas, and Okimoto; and Senators Kanuha and Fevella:

The Board of Education ("Board") opposes all versions of HB 407 HD1 SD1 and offers the following comments for consideration.

The Board agrees that the complex area superintendents play a vital role for their public school communities, and they are an integral component of the Department of Education's ("Department") tri-level leadership structure.

The Board does not support proposed legislation that would prevent or hinder the Board or the Department from addressing their annual strategic priorities. Annually, the Board sets strategic priorities, which the Superintendent uses to develop her own priorities that serve as the Board's primary measures for holding the Superintendent accountable to improving public education.

To achieve her priorities, the Superintendent relies on an expansive tri-level cadre of Department leaders, which includes the complex area superintendents. Without the flexibility to terminate the crucial members of her leadership team, when necessary, the Superintendent's responsibility to meet her annual priorities and advance public education in Hawaii becomes increasingly challenging.

Further, the Board does not believe it is appropriate or effective for the Board to assume management responsibilities over Department employees and believes it should remain focused on its primary roles of education policymaker and supervisor to the Superintendent as envisioned by the Constitution of the State of Hawaii. Extending the Board's role beyond this raises questions of constitutionality. The Board appreciates the Senate Committee on Education's amendment to this measure to keep appointment authority of complex area superintendents with the Superintendent rather than the Board. However, the Superintendent should remain responsible for managing the Department, its employees, and all related personnel decisions, including the termination of complex area superintendents when necessary.

We urge the Conference Committee not to pass this measure.

Thank you for considering the Board's position on this measure. Please feel free to contact the Board at (808) 586-3334 with any questions.

Very truly yours,

Catherine Payne
Chairperson, Board of Education
Chairperson, 2019 Legislative Ad Hoc Committee



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

April 23, 2019

**Conference Committee on House Bill 622, House Draft 2, Senate Draft 1, Relating to
Public Charter Schools**

Dear Chair Kidani; Co-Chairs Woodson, Luke, and Kanuha; Representatives Cullen, Hashem, Matayoshi, Tarnas, and Okimoto; and Senator Fevella:

The Board of Education ("Board") would like to offer the following comments for consideration on HB 622 HD2 SD1.

The Board supports legislation that requires charter school authorizers to hold charter schools accountable to academic, financial, and organizational outcomes, including compliance with applicable laws. To that end, the Board supports the intent of the provisions of this measure that require annual financial audits by independent auditors selected by the authorizer.

The Board opposes legislation that increases charter school accountability at the expense of the operational autonomy necessary for charter schools to fulfill their missions and act as independent public schools. The Board appreciates the Senate Draft provisions that would establish a banking account system instead of the purchase order system contemplated in the House Draft, and the Board supports the intent of the banking account system to the extent that it does not infringe upon the core autonomies charter schools need to be high-quality public schools. However, the Board finds that the provisions transferring control of public funds to the Commission upon filing of criminal charges against an employee of a charter school to be an unnecessary infringement upon charter school autonomy and conflict with existing statute and national principles and standards for quality authorizing.

While a charter school should make its authorizer aware of any federal criminal charges filed against one of its employees for actions taken in the course of employment at the school, such charges of an individual employee do not mean that the charter school violated law or its charter contract. Even if the charges of the individual employee lead to a finding of the charter school's noncompliance with law or its charter contract, Section 302D-17, Hawaii Revised Statutes ("HRS"), requires the authorizer to "provide reasonable opportunity for the charter school to remedy the problem[.]" By automatically taking away the school's control over its funds upon the filing of federal criminal charges of an individual, the school is condemned before its authorizer even finds noncompliance, and the school loses the operational autonomy it needs to take necessary corrective actions.

Section 302D-6, Hawaii Revised Statutes, states, in pertinent part, “All authorizers shall be required to follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibilities[.]” The mostly widely recognized national principles and standards for quality authorizing are the National Association of Charter School Authorizers’ *Principles & Standards for Quality Charter School Authorizing*,¹ which includes upholding school autonomy as one of its three core principles. This principle states, among other relevant things, that a quality authorizer “honors and preserves core autonomies crucial to school success” and “minimizes administrative and compliance burdens on schools.” The aforementioned provisions would prevent authorizers from meeting this principle and Section 302D-6, HRS, and would hinder schools from remedying any problems, pursuant to Section 302D-17, HRS.

Therefore, the Board respectfully requests that the Conference Committee use the House Draft language rather than the Senate Draft language regarding federal investigations.

Specifically, the Board requests the Conference Committee to use the proposed new statutory section entitled “Federal investigations” under Section 1 of House Draft 2 of the measure (page 1, line 5 to line 13) rather than the proposed new statutory section entitled “Federal investigation; charges; public funds” under Section 1 of Senate Draft 1 of the measure (page 1, line 5 to line 13).

The Board takes no position on the prohibition of affiliations between the Board, Commission, and charter schools as it relates to the Board’s governance structure because the Board believes it is most appropriate for the Legislature and Governor to decide such matters. However, the Board would like to provide comments on this prohibition.

Quality policymaking and oversight requires experience and knowledge in the subject matter area, which gives governing entities insight and in-depth knowledge of how the organizations under their oversight jurisdiction work. For example, having Board members who are former Department of Education teachers and principals provides the Board with insight and in-depth of how the Department of Education works. Similarly, charter school experience and knowledge gained while an employee, governing board member, vendor, contractor, agent, or representative gives members of the Board and Commission insight and in-depth knowledge of how charter schools and charter school authorizers work. Eliminating this knowledge from the Board and Commission potentially hinders the ability of these governing entities to effectively and efficiently oversee charter schools and charter school authorizers.

Moreover, even with the four-year cooling off period in the Senate Draft, this bill could potentially result in the ineligibility of at least three current Board members and between four to eight Commission members, which would cause a great disruption that would not benefit our students, unless the prohibition of previous charter school employees,

¹ See the National Association of Charter School Authorizer’s *Principles & Standards for Quality Charter School Authorizing, 2018 Edition*, here: <https://www.qualitycharters.org/wp-content/uploads/2018/10/NACSA-Principles-and-Standards-2018-Edition.pdf>.

governing board members, vendors, contractors, agents, or representatives serving on the Board and Commission is removed.

The Board, like the Legislature and all policymaking bodies, has to make some hard decisions. Each member of the Board believes public education is one of the most important services the State provides, and we want what is best for our students. We leave the important task of determining the best way to govern our public education system to you and the Governor.

Finally, the Board would like to comment on the Senate Draft's references to the Commission and authorizers as it relates to a charter school system with more than one authorizer. The Board is in the process of implementing a system that would allow for more authorizers than just the Commission, as required by Chapter 302D, HRS. Such a system is already complex, and some of the bill's provisions would convolute the lines of authority between the Board, Commission, and other authorizers. **To ensure consistency and clarity for the powers and responsibilities of all authorizers, the Board recommends all of the measure's references to the Commission be changed to include all authorizers.** Specifically, if the Conference Committee uses Senate Draft language, remove "the commission and" on page 2, lines 19 to 20, and (if the Conference Committee decides to keep the Senate Draft provisions the Board opposes, as described above) replace "commission" with "charter school's authorizer" on page 1, line 10, and replace "commission" with "authorizer" on page 1, line 11 and line 12.

The Board's position and comments on this measure are in regards to matters of public policy only, and the Board defers to the Commission on operational and implementation matters affecting authorizers and to each charter school on operational and implementation matters affecting their respective schools.

Thank you for considering the Board's position on this measure. Please feel free to contact the Board at (808) 586-3334 with any questions.

Very truly yours,

Catherine Payne
Chairperson, Board of Education
Chairperson, 2019 Legislative Ad Hoc Committee



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

April 23, 2019

**Conference Committee on Senate Bill 383, Senate Draft 2, House Draft 1, Relating to
Youth Suicide Prevention**

Dear House Co-Chairs Woodson, Mizuno, and Kitagawa; Senate Chair Kidani; Senate Co-Chairs Ruderman, Baker, and Kanuha; House Conferee Okimoto; and Senate Conferee Fevella:

The Board of Education ("Board") supports the House version of SB 383 SD2 HD1 with the following comments for consideration.

The Board appreciates that the House Draft places the responsibility to implement the youth suicide awareness and prevention training program, including its development, with the Department of Education ("Department") and its administratively attached agencies rather than the Board. The Board believes this is most appropriate, as the Board's fundamental purpose is to create educational policy, pursuant to the Constitution of the State of Hawai'i.

However, it is difficult for the Board to support proposed legislation that creates additional duties and responsibilities for the Department and charter schools without appropriating adequate, commensurate resources to accomplish such duties and responsibilities. This measure creates substantially more work for the Department and charter schools without any funding to accomplish their new responsibilities. Therefore, the Board requests that the Conference Committee ensure an appropriation exists to fund the development and implementation of the youth suicide awareness and prevention training program and risk referral protocol before passing this measure.

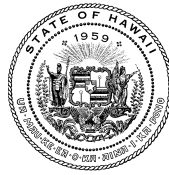
The Board's position and comments on this measure are in regards to matters of public policy only, and the Board defers to the Department on operational and implementation matters for the public education system. The Board also defers to the State Public Charter School Commission and the individual charter schools on operational and implementation matters as they relate to charter schools.

Thank you for considering the Board's position on this measure. Please feel free to contact the Board at (808) 586-3334 with any questions.

Very truly yours,

Catherine Payne
Chairperson, Board of Education
Chairperson, 2019 Legislative Ad Hoc Committee

DAVID Y. IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

**STATE OF HAWAII
BOARD OF EDUCATION**
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April 23, 2019

**Conference Committee on Senate Bill 592, Senate Draft 1, House Draft 2, Relating to the
Salary of the State Librarian**

Dear Chair Kidani; Co-Chairs Eli, Woodson, Cullen, and Kanuha; Representatives Hashem and Matsumoto; and Senator Fevella:

The Board of Education ("Board") strongly supports the Senate version of SB 592, which would set the salary cap of the State Librarian at ninety percent of the Superintendent's salary, but the Board supports any version of SB 592 that meaningfully raises the salary cap of the State Librarian.

The State Librarian oversees Hawaii's State Public Library System, which is responsible for nurturing the lifelong learning needs of all of the citizens of Hawaii. This includes oversight of 51 physical branches statewide as well as growing online and digital resources. Public libraries are the heart of many of our communities and serve as an essential partner with education in this state.

An increase in the State Librarian's salary cap will provide the Board with the flexibility and discretion it needs to attract and retain high-quality candidates.

Thank you for considering the Board's position on this measure. Please feel free to contact the Board at (808) 586-3334 with any questions.

Very truly yours,

Catherine Payne
Chairperson, Board of Education
Chairperson, 2019 Legislative Ad Hoc Committee