

## Agenda Item VII.F

### Board Action on findings and recommendations of Investigative Committee (a permitted interaction group pursuant to Hawaii Revised Statutes, Section 92-2.5(b)(1)) concerning Board policy positions for 2020 Legislative Session

General Business Meeting

September 19, 2019

At its September 5, 2019 general business meeting, the Board of Education (“Board”) received a report from the Investigative Committee (“Committee”) that the Board tasked with: (1) Developing the Board’s legislative policy positions for the 2020 Legislative session; (2) determining whether the Board needs to request any statutory changes based on the policy positions; (3) developing the Board’s legislative proposals based on that determination for the 2020 Legislative Session; and (4) drafting any legislative reports due by the Board to the 2020 Legislature. The Committee’s report is attached as **Exhibit 1**. In accordance with Section 92-2.5(b)(1)(C), Hawaii Revised Statutes (“HRS”), entitled “Permitted interactions of members,” the Board did not take action on any of the Committee’s recommendations.<sup>1</sup>

The Committee’s report completes its first three tasks. The Committee will bring its findings and recommendations on its last task to the Board at a future meeting.

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<sup>1</sup> Section 92.25(b)(1), HRS, provides, in pertinent part:

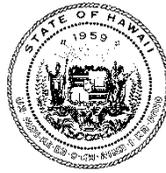
“(b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:

- (1) Investigate a matter relating to the official business of their board; provided that:
  - (A) The scope of the investigation and the scope of each member’s authority are defined at a meeting of the board;
  - (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and
  - (C) Deliberation and decision making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board;”

(Emphasis added).

**Exhibit 1**

**Investigative Committee Report (dated September 5, 2019)**



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

September 5, 2019

TO: Board of Education

FROM: Catherine Payne  
Chairperson, Investigative Committee

AGENDA ITEM: Investigative committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(1)) concerning Board policy positions, Board legislative proposals, and legislative reports for 2020 Legislative Session: findings and recommendations on Board policy positions for the 2020 Legislative Session and Board legislative proposals

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**I. BACKGROUND**

At its August 1, 2019 general business meeting, the Board of Education ("Board") established an investigative committee ("Committee") tasked with:

1. Developing the Board's legislative policy positions for the 2020 Legislative Session;
2. Determining whether the Board needs to request any statutory changes based on the policy positions;
3. Developing the Board's legislative proposals based on that determination for the 2020 Legislative Session; and
4. Drafting any legislative reports due by the Board to the 2020 Legislature.

The Board appointed Board Members Kili Namau'u, Dwight Takeno, Bruce Voss, and me as members of the Committee with myself serving as chair of the Committee.

The Board will be establishing an ad hoc committee at a future meeting responsible for presenting, discussing, and negotiating the Board's adopted policy positions at the Legislature.<sup>2</sup> Note that if the Board's adopted policy positions do not relate to any proposed legislation that arises, the Board must adopt a position on such legislation before the ad hoc committee can present, discuss, or negotiate on the subject matter.

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<sup>2</sup> My memorandum dated August 1, 2019 describes the proposed approach for engaging the Legislature for the 2020 Legislative Session. The memorandum is available here: [http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM\\_20190801\\_Action%20on%20Investigative%20Committee%20concerning%202020%20Legislative%20Session.pdf](http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_20190801_Action%20on%20Investigative%20Committee%20concerning%202020%20Legislative%20Session.pdf).

## II. FINDINGS

Regarding policy positions for the 2020 Legislative Session, the Committee finds that the Board's policy positions should support proposed legislation that advances the Board and Department of Education's ("Department") Strategic Priorities for the 2019-2020 school year ("Strategic Priorities") and the Board's Committee Strategic Priorities for the 2019-2020 school year, as described in the proposed policy positions, attached as **Exhibit A**. The Committee also finds that the Board's policy positions should support proposed legislation that addresses the needs identified in the Department and Hawaii State Public Library System's Board-approved supplemental budget requests for Fiscal Year 2021 (both to be reviewed and approved by the Board at a later date). Finally, the Committee finds that the Board should take the charter school and general policy positions described in the proposed policy positions. As it did last year, the Board can amend its policy positions during legislative session should the need arise.

The Committee developed these proposed policy positions by reviewing the policy positions the Board adopted for the 2019 Legislative Session and determining whether changes are necessary. The following list describes the changes to the 2019 policy positions for the 2020 policy positions.

1. Add a policy position associated with the Strategic Priority on Equity and Access under the Department policy positions that supports measures that "[p]rovide more resources for appropriate support structures to provide access to Hawaiian language immersion education to all interested students." Board Policy 105-8, entitled "Ka Papahana Kaiapuni," states that "[e]very student within the State of Hawaii's public school system should have reasonable access to the Kaiapuni Educational Program."
2. Change the policy position associated with the Strategic Priority on Equity and Access under the Department policy positions to "Advance equitable access to ~~[athletic]~~ athletic facilities and opportunities for all students, particularly at schools with the greatest socioeconomic and academic needs" (bracketed and stricken text are deletions and underlined text are additions). This change aligns the policy to Finance and Infrastructure Committee Strategic Priority 2, which is to "establish the policies and structures necessary to direct and enable the Department to complete **all** facilities projects at its schools with the **greatest socioeconomic and academic needs** as determined by a priority order intended to advance equity" (emphasis added).
3. Delete the policy position associated with the Strategic Priority on Equity and Access under the Department policy positions that supports measures that "[a]ddress Title IX compliance." Because the Department has taken strides to address Title IX compliance, the Committee finds that a standalone policy position on the issue is unnecessary. Deleting the policy position does not mean the Board does not find Title IX compliance important, however. Rather, the Board supports Title IX compliance through other policy positions, such as the policy positions that

support measures that protect students' civil rights or advance equitable access to facilities and opportunities for all students.

4. Move the policy position under the Department policy positions that supports measures that “[e]xpand early college opportunities” from the Strategic Priority on Student-centered School Design to the Strategic Priority on Equity and Access, and change it to “[e]xpand early college opportunities for all students” (underlined text are additions). The Committee finds that initiating early college opportunities relates to school design, but expanding these opportunities relates more to equity and access.
5. Change the policy position associated with the Strategic Priority on Safe Learning Environments that Support Students' Wellbeing under the Department policy positions to “[p]rovide resources [~~to ensure~~] for appropriate structures and school facilities that support students' mental, emotional, and physical wellbeing” (bracketed and stricken text are deletions and underlined text are additions). This change aligns the policy to Student Achievement Committee Strategic Priority 2, which is to “ensure Board policies under [the Student Achievement Committee's] jurisdiction support **student mental and emotional wellbeing**, particularly to prevent youth suicide as Act [270] (SB383) intends and recent data from the Youth Risk Behavior Survey illustrates as an issue” (emphasis added).
6. Delete all policy positions related to early learning, including the position associated with the Strategic Priority on Student-centered School Design under the Department policy positions that supports measures that “[p]rovide resources to expand pre-kindergarten opportunities.” The Committee finds that Board should defer to the Early Learning Board (“ELB”) on matters for which ELB is statutorily responsible while the Board looks for ways to collaborate and coordinate with ELB to support a cohesive and comprehensive system of early childhood education.
7. Add a policy position associated with the Strategic Priority on Staff Professional Development, Recruitment, and Retention under the Department policy positions that supports measures that “[s]upport teacher professional development that advances career and technical education.” The Committee finds that there is increasing interest and demand for career and technical education in schools and teachers need training and support to meet these demands.
8. Change the Department and public libraries policy positions that support the identified budget needs to reference the supplement budget request rather than the biennium budget request.
9. Delete the policy position supporting an increase in the salary cap of the State Librarian, as the Legislature increased the salary cap during the past legislative session.

10. Change the last two policy positions under the charter school policy positions to be more general, as the Board originally adopted them in reaction to specific provisions in previously proposed legislation.
11. Change a general policy position to oppose any proposed legislation that “[~~Conflicts with~~] d]iminishes the Board’s power to formulate statewide educational policy as envisioned and established by Article X, Section 3, of the Constitution of the State of Hawaii” (bracketed and stricken text are deletions and underlined text are additions). The proposed change gets to the spirit of the original policy position while acknowledging the Legislature’s constitutional authority and recognizing it as a co-policymaker in the creation of statewide educational policy.
12. Add a general policy position to oppose any proposed legislation that “[r]equires the Board to assume management responsibilities over employees other than the Superintendent of Education and the State Librarian rather than remain focused on its constitutional responsibility of policymaking.” Previous legislation sought to give employment management responsibilities to the Board. This new policy position helps to communicate the Board’s constitutional role.

Regarding legislative proposals for the 2020 Legislative Session, the Committee finds that it is not necessary for the Board to request any statutory changes at this time and therefore does not recommend that the Board submit any legislative proposals.

### **III. RECOMMENDATION**

The Committee recommends that the Board adopt the policy positions attached to this memorandum for the 2020 Legislative Session.

**Proposed Motion: Move to adopt the Board policy positions for the 2020 Legislative Session attached as Exhibit A to Investigative Committee Chairperson Catherine Payne’s memorandum dated September 5, 2019.**

This report completes the Committee’s first three tasks. The Committee will bring its findings and recommendations on its last task to the Board at a future meeting.

**Exhibit A**

**Proposed Board Policy Positions for the 2020 Legislative Session**

## BOARD OF EDUCATION 2020 LEGISLATIVE POLICY POSITIONS

### DEPARTMENT OF EDUCATION POLICY POSITIONS

The Board of Education (“Board”) supports proposed legislation that advances the Board and Department of Education’s (“Department”) Strategic Priorities for the 2019-2020 school year (“Strategic Priorities”). The table below describes the Strategic Priorities and the Board’s policy positions associated with each Strategic Priority. These policy positions also intend to support the Board’s Committee Strategic Priorities for the 2019-2020 school year.

Strategic Priorities	The Board supports measures that...
<p><u>Equity and Access</u> Ensuring that the appropriate policies, structures, and resources are in place to guarantee the advancement of access and support structures that enable and inspire all students to succeed in school and life. This priority references special education and English Learners in particular, but does not preclude issues like civil rights and Title IX.</p>	<ul style="list-style-type: none"> <li>• Provide more resources for appropriate support structures that allow all students, especially those receiving special education or English learner services, to engage in learning</li> <li>• Provide more resources for appropriate support structures to provide access to Hawaiian language immersion education to all interested students</li> <li>• Protect students’ civil rights</li> <li>• Advance equitable access to facilities and opportunities for all students, particularly at schools with the greatest socioeconomic and academic needs</li> <li>• Expand early college opportunities for all students</li> </ul>
<p><u>Safe Learning Environments that Support Students’ Wellbeing</u> Ensuring that the appropriate policies, structures, and resources, grounded in Nā Hopena A’o are in place so learning environments that support all students’ emotional and physical wellbeing can be cultivated. A truly safe learning environment that supports students’ wellbeing is one that students themselves want to be in so they attend school regularly and willingly, thereby reducing chronic absenteeism.</p>	<ul style="list-style-type: none"> <li>• Provide resources for appropriate structures and school facilities that support students’ mental, emotional, and physical wellbeing</li> <li>• Recognize the importance of addressing bullying, harassment, and discrimination in schools</li> </ul>
<p><u>Student-centered School Design</u> Ensuring that the appropriate policies, structures, and resources are in place to support schools designed to engage students in rigorous and innovative curriculum and encouraging students to strive beyond what is</p>	<ul style="list-style-type: none"> <li>• Increase career and technical education</li> <li>• Advance or provide resources for innovative, student-centered school design</li> </ul>

Strategic Priorities	The Board supports measures that...
<p>expected, while being mindful of the values, needs, and welfare of others, within a student and community designed learning environment that is aligned to college and careers. Design includes every aspect of a school: facilities, school models, themes, resources, partners (families, communities, and organizations), school day schedule, pedagogical approaches, allocation of teacher collaboration time, technology, governance, and organizational structure.</p>	
<p><u>Staff Professional Development, Recruitment, and Retention</u> Ensuring that the appropriate policies, structures, and resources are in place to allow for the establishment of a dynamic learning community that is responsive to parent and student reflections on the quality and relevance of the student’s learning and designed to continuously develop staff capacity to lead the work that results in high student achievement and the development of clear leadership pathways, supports, and incentives that attract and retain talent.</p>	<ul style="list-style-type: none"> <li>• Support leadership pipeline development</li> <li>• Expand teacher recruitment and retention initiatives, which provide teachers with incentives and resources or support a teaching career path</li> <li>• Support teacher professional development that advances career and technical education</li> </ul>
<p><u>Communication and Engagement</u> Ensuring that the appropriate policies, structures, and resources are in place so the Department and Board thoughtfully and intentionally engage with students, staff, families, and community stakeholders in two-way communications that will help to inform decision-making and priority setting (particularly with respect to the development of a new strategic plan) and improve transparency and access to information.</p>	<ul style="list-style-type: none"> <li>• Support informed decision-making and priority setting through thoughtful and intentional engagement with stakeholders</li> <li>• Improve transparency and access to information to encourage an informed and engaged community of citizens</li> </ul>

The Board supports proposed legislation that addresses the needs identified in the Department’s Board-approved supplemental operating and Capital Improvement Program budget requests for Fiscal Year 2021.

**LIBRARIES POLICY POSITIONS**

The Board supports proposed legislation that addresses the needs identified in the Hawaii State Public Library System’s Board-approved supplemental operating and Capital Improvement Program budget requests for Fiscal Year 2021.

## **CHARTER SCHOOL POLICY POSITIONS**

The Board supports proposed legislation that addresses charter school facilities needs as a longstanding and unresolved issue that the Board cites in its annual charter school report to the Legislature every year.

The Board opposes proposed legislation that restricts the operational autonomy necessary for charter schools to fulfill their missions and act as independent public schools.

The Board opposes proposed legislation that removes the Board's organizational and oversight authority over charter school authorizers, as the Board believes that all public elementary and secondary institutions should ultimately fall under the Board's purview.

## **GENERAL POLICY POSITIONS**

The Board **does not** support proposed legislation that:

- Prevents or hinders the Board or Department from addressing the Strategic Priorities;
- Diminishes the Board's power to formulate statewide educational policy as envisioned and established by Article X, Section 3, of the Constitution of the State of Hawaii;
- Requires the Board to assume management responsibilities over employees other than the Superintendent of Education and the State Librarian rather than remain focused on its constitutional responsibility of policymaking; or
- Creates additional duties or responsibilities for the Department or Board without appropriating adequate, commensurate resources to accomplish such duties or responsibilities.

The Board takes no position on legislation relating to the Board's governance structure, as the Board believes it is most appropriate for the Legislature and Governor to decide such matters. The Board will endeavor to provide the Legislature with any relevant information relating to Board governance matters to enable the Legislature to make informed decisions.

The Board's positions on proposed legislation are in regards to matters of public policy only, and the Board defers to the Department (or its administratively attached agencies when appropriate) on operational and implementation matters.