



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

January 16, 2020

TO: Board of Education

FROM: Catherine Payne
Chairperson, Board of Education

AGENDA ITEM: Board Action on Board representatives to the School Community Council ("SCC") Exception Review Committee for purposes of reviewing SCC requests for waivers from Board policies or rules and exceptions to collective bargaining agreements

I. BACKGROUND

State law,ⁱ Board policy,ⁱⁱ and a memorandum of understanding ("MOU")ⁱⁱⁱ between the Board of Education ("Board") and Hawaii State Teachers Association ("HSTA") contain the requirements relating to the process for reviewing requests for waivers from Board policies, rules, and collective bargaining agreements. State law requires the Board to "adopt procedures necessary to process waivers initiated by a school community council." Among other things, the MOU provides that the SCC Exception Review Committee will be comprised of two representatives appointed by HSTA and two representatives appointed by the Board, which is why the committee is sometimes informally referred to as the "2+2 Committee."

The two Board-appointed representatives currently serving on the SCC Exception Review Committee are Board Member Margaret Cox (appointed on January 10, 2017) and Assistant Superintendent Rodney Luke (appointed on December 5, 2017). Board Member Cox is resigning from the committee.

I am offering to take Board Member Cox's place and represent the Board on the SCC Exception Review Committee. Assistant Superintendent Luke would remain as the Board's second representative on the SCC Exception Review Committee.

II. RECOMMENDATION

I recommend that the Board appoint me as one of the Board's representatives on the SCC Exception Review Committee, replacing Board Member Cox.

i Section 302A-1126, entitled "Waiver of policy, rule, or procedures," states:

"Any state agency that may be required to act under state law on a matter affecting an individual school or its school community, shall waive otherwise applicable policies, rules, or procedures when requested to do so by a school community council unless the agency, within thirty days, can justify a denial to the appropriate authority. The board shall adopt procedures necessary to process waivers initiated by a school community council. Any general waiver of policy, rule, or procedures granted by the board to a specific school or schools may be extended by the board to apply to other schools under comparable circumstances. This section shall apply to collective bargaining agreements as provided for in all relevant collective bargaining agreements negotiated pursuant to chapter 89."

ii Board Policy 500-20, entitled "School Community Council Waivers and School Community Council Exceptions," states:

"The Board has established procedures whereby School Community Councils ("SCC"), upon application to the Board, may be granted waivers from specific Board policies or rules and/or may be granted exceptions to specific provisions of labor agreements to which the Board is a signatory. The Department shall administer the procedures and make them widely available to the public.

Requests for waivers from rules not under the direct control of the Board shall be forwarded to the appropriate governmental agency by the Department.

Waivers and exceptions are designed to enhance flexibility in order to facilitate school improvement. Schools are encouraged to explore alternate solutions before seeking waivers or exceptions to collective bargaining agreements.

Schools shall ensure that requests for waivers and exceptions align with their respective school's Academic and Financial Plan and demonstrate how the waiver or exception will improve student learning and increase student achievement.

To facilitate its commitment to School Community Councils and to make the process of obtaining waivers less burdensome and less time-consuming, the Board hereby establishes the category, "Generic Waiver and/or Exception" to which the Board may assign any request.

Generic waivers and/or exceptions have been found by the Board to have sufficient merit or be sufficiently routine so as to justify automatic approval* upon application by a school. The Superintendent shall maintain an up-to-date list of SCC Waivers and SCC Exceptions that have been designated "Generic" by the Board, and shall approve all requests from schools for such waivers or exceptions.*

The Board, for reasons it finds appropriate, may remove the "Generic" designation from a waiver or exception at any time without necessarily affecting the status of schools previously granted such waivers or exceptions under this policy.

All requests for waivers or exceptions not designated by the Board to be "Generic" shall require Board approval.

*In the case of SCC exceptions to the provisions of a labor agreement to which the Board is a signatory, such approval indicates only Board agreement. The exception also requires union agreement."

iii The MOU states, in pertinent part:

"A State Committee to be called the SCC Exception Review Committee shall be established.

1. This Committee shall be comprised of two (2) representatives appointed by the Association and two (2) representatives appointed by the Board.

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2. This Committee shall establish its own rules of operation.
 3. This Committee shall review SCC's requests for exceptions to the Agreement, including those items incorporated by reference.
 4. Both parties must approve exceptions to the Agreement.
 5. Any exceptions to the Agreement shall not extend past the duration of the Agreement.
 6. Unless otherwise specified by the Committee, all exceptions shall be renewed if all role groups at the school agree to continue them. The school shall submit a notification of renewal to the Committee.
 7. If Bargaining Unit 5 members object to renewing an exception, they must go through the exception process before the request is submitted to the Committee.
 8. If there are modifications to an exception, the role groups must go through the exception process before the request is submitted to the Committee.
 9. The exceptions granted shall be applicable only to the school submitting the exception request.
 10. Properly processed requests for exceptions granted by this Committee shall not be subject to the Grievance Procedure as provided for in the Agreement for the duration of the exception.

This Memorandum of Understanding shall expire on June 30, 2021.”