

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

August 19, 2021

TO: Board of Education

FROM: Catherine Payne
Chairperson, Board of Education

AGENDA ITEM: Update on the timeline for and evaluation team tasked with
conducting the performance evaluation of the State Public Charter
School Commission

I. EXECUTIVE SUMMARY

- The Board of Education (“Board”) must conduct a performance evaluation of the State Public Charter School Commission (“Commission”).
- Board Member Lynn Fallin, Board Chairperson Catherine Payne, Ernest Nishizaki, and Kenyon Tam are the members of the evaluation team.
- Board Chairperson Payne changed the performance evaluation timeline in response to an extension request from members of the Commission.

II. BACKGROUND

On February 21, 2017, the Board completed a special review of the Commission, culminating in the issuance of a report to the Commission with findings, including deficiencies that the Commission needed to address.¹ The Board considered the special review as the Commission’s first performance evaluation as required by

¹ The special review report is attached as Exhibit B to Investigative Committee Chairperson Brian De Lima’s memorandum dated February 7, 2017, available here:
https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_20170207_Report%20on%20Special%20Review%20Committee.pdf.

Hawaii Administrative Rules (“HAR”) Section 8-515-11(e) requiring the Board to “conduct a performance evaluation of each authorizer no less than every five years.”

On May 2, 2019, the Board adopted the Hawai'i Authorizer Performance Evaluation System (“HAPES”)² as the performance evaluation system required by HAR Section 8-515-10.³ HAPES requires an evaluation team to conduct the performance evaluation of an authorizer. HAPES states, in pertinent part:

The Evaluation Team will consist of at least four members, but no more than five, of which at least two, but no more than three, are Board members with the remaining members being external experts. The Board will select the Board member evaluators. The Board Chairperson will select the external expert evaluators. The Board Chairperson may instruct Board staff to gather suggestions for external expert evaluators from Board members in a manner that complies with Sunshine Law (HRS Chapter 92, Part I). The Evaluation Team must have at least one member with expertise in each of the following areas:

- Charter school authorizing at either the state or national level;
- Finance, accounting, or a related field; and
- Hawaii's charter school legal framework.

A single evaluator with expertise in more than one of the required areas is qualified to fulfill the Evaluation Team's constitution requirements in those areas. While not required, other desirable areas of expertise include charter school operations, educational program design or data analysis (particularly as it relates to the authorizer's mission and vision, if possible), human resources, governance, and/or public administration.

At its July 15, 2021 special meeting, the Board assigned Board Member Lynn Fallin and myself to a permitted interaction group, pursuant to Hawaii Revised Statutes (“HRS”) Section 92-2.5(b)(1),⁴ tasked with investigating the Commission's

² HAPES is available here:

[https://boe.hawaii.gov/About/Documents/Charter%20Schools/Hawaii%20Authorizer%20Performance%20Evaluation%20System%20\(adopted%202019-05-02\).pdf](https://boe.hawaii.gov/About/Documents/Charter%20Schools/Hawaii%20Authorizer%20Performance%20Evaluation%20System%20(adopted%202019-05-02).pdf).

³ HAR Section 8-515-10 states, in pertinent part, “The board shall develop a performance evaluation system to assess the effectiveness of all authorizers and the commission using the procedures described in sections 8-515-11 and 8-515-12.”

⁴ HRS Section 92-2.5(b)(1) states, “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 . . . [i]nvestigate 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

performance in accordance with HAPES and to the evaluation team responsible for conducting the performance evaluation of the Commission, pursuant to HAPES, with Board Member Fallin chairing the evaluation team.

III. UPDATE

Pursuant to HAPES, I selected two external expert evaluators to round out the evaluation team with the necessary skillsets: Ernest Nishizaki and Kenyon Tam. Mr. Nishizaki is a business consultant and retired visitor industry executive who used to serve as vice chairperson of the Commission and as chairperson of its Administration and Operations Committee. Mr. Tam is an analyst for the Board who previously worked on operations, new charter school application and opening processes, and performance contracting at the Commission, and at the Board's direction, he spearheaded the components of the Board's authorizer oversight system.

In my memorandum to the Board with the recommendation to assign Board Member Fallin and myself to the evaluation team, I included the general timeline of the performance evaluation.⁵ In accordance with that original timeline, the Commission was to submit its performance evaluation response form by August 13, 2021. However, Commission Chairperson John Kim and Commission Member Mitch D'Olier, members of the Commission's workgroup appointed to work with the Board on the performance evaluation, sent me a letter on July 29, 2021 (attached as **Exhibit A**) requesting an extension of the deadline for the performance evaluation response form by three months.

While I did not grant an extension of three months as requested, I did grant an extension of one month, pursuant to my authority to approve the exact dates and deadlines under HAPES. I granted the extension under the condition that the members of the Commission must meet between November 1 and November 24, 2021 to review and discuss the draft performance evaluation report produced by the evaluation team and determine what comments, if any, the Commission would like to provide in response. A revised timeline is included in my letter to Mr. Kim and Mr. D'Olier, attached as **Exhibit B**.

(C) Deliberation and decisionmaking 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[.]”

⁵ My memorandum, dated July 15, 2021, is available here: https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/Special_20210715_Action%20n%20designation%20of%20Board%20members%20to%20evaluation%20team.pdf.

Exhibit A

July 29, 2021 letter from Commission Chairperson John Kim and Commission Member Mitch D'Olier to Board Chairperson Catherine Payne

DAVID Y. IGE
GOVERNOR



JOHN S. S. KIM
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1164 Bishop Street, Suite 1100, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

July 29, 2021

Via email: boe.hawaii@boe.hawaii.gov, catherine.payne@boe.hawaii.gov,
lynn.fallin@boe.hawaii.gov,

Catherine Payne, Chair
Lynn Fallin, Board Member and Evaluation Chair
Board of Education
P.O. Box 2360
Honolulu, Hawaii 96804

Re: Board of Education (“BOE”) performance evaluation of the State Public Charter School
Commission

Dear Chair Payne and Evaluation Chair Fallin:

As members of the Commission’s workgroup appointed to work with the BOE on the State Public Charter School Commission’s (“Commission”) performance evaluation, we write to request an extension of three months from August 13, 2021 to provide the its completed Performance Evaluation Response Form and attachments to the BOE. This additional time would allow the workgroup to compile the numerous attachments and documentation requested and share and work with the full Commission on this effort.

As you are aware, a number of events have taken up much of our time, with a leadership departure, the advent of COVID-19 shortly thereafter and it’s ever changing impacts on the operations of our schools and the Commission’s business. During this same time, among other things, the Commission and staff engaged our public charter schools in a detailed review and comment process surrounding the adoption of a new version of the public charter school contract. All these matters have impacted the Commission’s work, and indeed the work of all of our public schools. With the start of the new school year, the Commission is also currently focused on the safe and efficient reopening of schools and their continued operation for the upcoming school year.

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Request for extension C. Payne and L. Fallin
July 29, 2021

Additionally, with a full membership of the Commission recently appointed by the BOE just this past July 15, 2021, we believe the requested extension would allow all Commissioners to fully review and work with the BOE on this performance evaluation. Also relevant to the work and performance of the Commission, since January of 2021, the Commission has been engaged in the revision of its current Strategic Plan and are close to concluding that work.

We appreciate your understanding and consideration of the above information and hope that you will grant the Commission an extension of time to provide you with the requested documentation.

Thank you for your kind consideration of these matters.

Sincerely,



John S.S. Kim
Chair

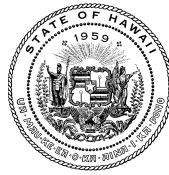


H. Mitchell D'Olier
Commissioner and Workgroup Member

cc: Alison Kunishige, Executive Director, Hawaii Board of Education (via email)
Kenyon Tam, Board Analyst, Hawaii Board of Education (via email)
Regina Pascua, Executive Secretary, Hawaii Board of Education (via email)

Exhibit B

**August 3, 2021 letter from Board Chairperson Catherine Payne to Commission
Chairperson John Kim and Commission Member Mitch D'Olier**



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

August 3, 2021

VIA EMAIL

John S.S. Kim, Chairperson
H. Mitchell D'Olier, Member
State Public Charter School Commission
1164 Bishop Street, Suite 1100
Honolulu, HI 96813

Re: Request for an extension to submit the Performance Evaluation Response Form

Dear Mr. Kim and Mr. D'Olier:

This letter is in response to your letter dated July 29, 2021 requesting an extension of three months to submit a completed Performance Evaluation Response Form, a required component of the Board of Education's ("Board") performance evaluation of the State Public Charter School Commission ("Commission"). Through the letter I sent to the Commission on May 14, 2021 informing the Commission of the performance evaluation, I originally set August 13, 2021 as the deadline for the form.

I understand that the Commission has competing priorities. However, a three-month extension is not reasonable, as I notified the Commission of the performance evaluation and the Performance Evaluation Response Form three months prior to receiving your letter requesting an extension. Still, I want the Commission to be able to provide comprehensive and meaningful information to the Board's evaluation team, and to that end, I am willing to provide a one-month extension. Note that I am granting this extension under the condition that the members of the Commission must meet between November 1 and November 24, 2021 to review and discuss the draft performance evaluation report produced by the evaluation team and determine what comments, if any, the Commission would like to provide in response. Please begin planning for this task now.

The revised timeline below supersedes the timeline included in the Performance Evaluation Response Form attached to my May 14 letter.

Date	Activity
September 10, 2021 (by 4:30 p.m.)	Authorizer submits Performance Evaluation Response Form and attachments
September 13 to October 1	Window for Evaluation Team's initial review
October 4-8	Evaluation Team interviews authorizer representatives
October 4-15	Evaluation Team surveys and/or interviews representatives from charter schools within authorizer's portfolio
October 11-15	Evaluation Team holds a public forum to allow public input on authorizer
October 29	Evaluation Team provides authorizer with draft performance evaluation report
<i>November 1-24</i>	<i>Commission meets to review and discuss the draft performance evaluation report and determine what comments, if any, it would like to provide in response</i>
November 26	Authorizer submits written comments on draft performance evaluation report
December 10	Final draft of performance evaluation report posted
December 16	Board General Business meeting on performance evaluation presentation
January 20, 2022	Board General Business Meeting on performance evaluation decision
January 21	Board issues performance evaluation report

I will inform the Board's evaluation team (which consists of Board Member Lynn Fallin as the evaluation team chair and Ernest Nishizaki, Kenyon Tam, and myself as the other members) of the extension and changes to the timeline.

Again, thank you in advance for your cooperation in this important accountability process and your dedication to improving outcomes for students through quality charter school authorizing.

Sincerely,



Catherine Payne
Chairperson, Board of Education

c: Yvonne Lau, Interim Executive Director, State Public Charter School Commission