



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

December 16, 2021

TO: Board of Education

FROM: Catherine Payne
Chairperson, Board of Education

AGENDA ITEM: Board Action on designation of Board members to an ad hoc committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(2)) concerning 2022 Legislative Session

I. BACKGROUND

For the past three legislative sessions, the Board of Education (“Board”) has formed an ad hoc committee, which has allowed the Board to take a more active role in engaging with the Hawaii State Legislature by attending hearings, submitting testimony, and meeting with legislators, among other things. The ad hoc committee mechanism ensures compliance with Sunshine Law requirements while allowing greater interaction between the Board members that serve on the committee and the Legislature. I believe that the work of past legislative ad hoc committees was valuable and helped the Board build relationships and have policy conversations with the Legislature as the Board’s education co-policymakers.

Authority. Sunshine Law allows two or more Board Members to present, discuss, or negotiate a position the Board has adopted, provided that the Board makes the assignment and establishes the scope of each member’s authority before any presentation, discussion, or negotiation takes place.¹ The Board’s bylaws allow the Board to form an ad hoc committee for a discrete and specific purpose of interest to the Board for a definite time period or until its specific function has been completed.² The Board must approve the charge of the ad hoc committee.

¹ Hawaii Revised Statutes [Section 92-2.5\(b\)\(2\)](#) provides, “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: [p]resent, discuss, or negotiate any position which the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member’s authority is defined at a meeting of the board prior to the presentation, discussion or negotiation.”

² Bylaws of the Hawaii State Board of Education, Article V, Section 5.8, provides:

The legislative ad hoc committee is not required to report its findings at a public meeting before the full Board can discuss or act on the report, nor is it required to report after attending any meetings or hearings. However, I would like the legislative ad hoc committee to report regularly to the Board on its activities as it has in previous years.

Ad Hoc Committee and Member Authority. I recommend the Board authorize the creation of the 2022 Legislative Ad Hoc Committee. All members of the committee will have the authority to present, discuss, or negotiate any of the policy positions the Board adopts at the general business meeting today. Committee members will also be authorized to present, discuss, or negotiate any further policy positions the Board adopts for the 2022 Legislative Session or any amendments to existing policy positions for the 2021 Legislative Session. The 2022 Legislative Ad Hoc Committee Chairperson will have the further authority to call committee meetings, schedule and provide periodic reports to the Board, and submit written testimony to the Legislature on behalf of the Board as approved by the Committee or delegate such authority to a fellow ad hoc committee member. The authority of the 2022 Ad Hoc Committee shall extend through and until July 31, 2022.

II. RECOMMENDATION

I recommend that the Board authorize the creation of the 2022 Legislative Ad Hoc Committee as a permitted interaction group formed pursuant to Hawaii Revised Statutes Section 92-2.5(b)(2), appoint up to four Board members to the committee with the authority described in this memorandum, and charge the committee to, on behalf of the Board, present, discuss, or negotiate the policy positions the Board adopts at its December 16, 2021 General Business Meeting and any new or amended policy positions the Board adopts for the 2022 Legislative Session through and until Governor's last veto deadline for the 2022 Legislative Session, but in no event later than July 31, 2022.

Proposed Motion: "Moved to:

"Ad Hoc Committees. The Board may, as circumstances warrant, authorize the creation of an Ad Hoc Committee for a discrete and specific purpose of interest to the Board and shall appoint all members and officers, including a Committee Chairperson, of such Ad Hoc Committee. The Board shall approve the charge of any Ad Hoc Committee. An Ad Hoc Committee may be created for a definite time period or until its specific function has been completed, but shall not exist longer than one year from the date of authorization unless specifically authorized by its charge."

- 1. Authorize the creation of the 2022 Legislative Ad Hoc Committee as a permitted interaction group formed pursuant to Hawaii Revised Statutes Section 92-2.5(b)(2);**
- 2. Appoint Board Members ____ as members of the 2022 Legislative Ad Hoc Committee with the authority described in Board Chairperson Catherine Payne’s memorandum, dated December 16, 2021, and Board Member ____ serving as chairperson of the committee; and**
- 3. Charge the 2022 Legislative Ad Hoc Committee to, on behalf of the Board, present, discuss, or negotiate the policy positions the Board adopted at its December 16, 2021 General Business Meeting and any new or amended policy positions the Board adopts for the 2022 Legislative Session through and until Governor’s last veto deadline for the 2022 Legislative Session, but in no event later than July 31, 2022.”**