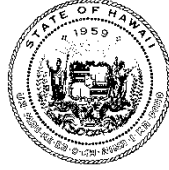


DAVID Y. IGE
GOVERNOR



BRUCE D. VOSS
CHAIRPERSON

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

November 17, 2022

TO: Board of Education

FROM: Bruce D. Voss
Chairperson

AGENDA ITEM: Board Action on findings and recommendations of Investigative Committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(1)) investigating issues concerning Board policy positions, legislative proposals, and legislative reports for 2023 Legislative Session: Board policy positions and legislative proposals for the 2023 Legislative Session

At its October 20, 2022 general business meeting, the Board of Education ("Board") received a report from the investigative committee known as the 2023 Legislative Investigative Committee with a scope of work that includes the following:

1. Consult with legislators, the Department, education agencies, and other key stakeholders on education policy priorities;
2. Determine whether the Board should consider requesting any statutory changes, and if so, develop, and recommend to the Board for approval, legislative proposals for the 2023 Legislative Session;
3. Vet and recommend to the Board for approval any legislative proposals from the Department to be included in the governor's administrative package for the 2023 Legislative Session;
4. Develop, and recommend to the Board for approval, legislative policy positions for the 2023 Legislative Session; and

5. Identify the reports the Board is required to submit to the Legislature prior to the 2023 Legislative Session and develop, and recommend to the Board for approval, the required legislative reports.

The 2023 Legislative Investigative 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 deliberate or take action on any of the 2023 Legislative Investigative Committee's findings or recommendations at its October 20, 2022 general business meeting.¹

The 2023 Legislative Investigative Committee's report completes its first four tasks in its scope of work. The committee is scheduled to report its findings and recommendations for its final task at the Board's November 17, 2022 general business meeting.

¹ 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:

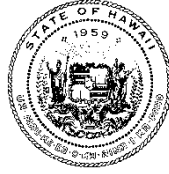
- (1) Investigate a matter relating to the official business of their board; provided that:
 - (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;
 - (B) All resulting findings and recommendations are presented to the board at a meeting of 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

2023 Legislative Investigative Committee Report (dated October 20, 2022)

DAVID Y. IGE
GOVERNOR



BRUCE D. VOSS
CHAIRPERSON

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

October 20, 2022

TO: Board of Education

FROM: Bill Arakaki
Chairperson, 2023 Legislative 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, legislative proposals, and legislative reports for 2023 Legislative Session: findings and recommendations on Board policy positions and legislative proposals for the 2023 Legislative Session

I. EXECUTIVE SUMMARY

- The Board of Education (“Board”) established the 2023 Legislative Investigative Committee to consult with stakeholders, recommend legislative proposals, vet legislative proposals from the Department of Education (“Department”), and recommend legislative policy positions.
- The committee finds the feedback from stakeholders valuable and informative to both the committee’s work and the Board’s other work.
- 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. The committee also finds that it is unnecessary for the Board to approve any legislative proposals from the Department.
- The committee recommends that the Board adopt the policy positions attached as **Exhibit A** for the 2023 Legislative Session.

II. **BACKGROUND**

At its July 14, 2022 general business meeting, the Board established an investigative committee, known as the 2023 Legislative Investigative Committee, with a scope of work that includes the following:

1. Consult with legislators, the Department, education agencies, and other key stakeholders on education policy priorities;
2. Determine whether the Board should consider requesting any statutory changes, and if so, develop, and recommend to the Board for approval, legislative proposals for the 2023 Legislative Session;
3. Vet and recommend to the Board for approval any legislative proposals from the Department to be included in the governor's administrative package for the 2023 Legislative Session;
4. Develop, and recommend to the Board for approval, legislative policy positions for the 2023 Legislative Session; and
5. Identify the reports the Board is required to submit to the Legislature prior to the 2023 Legislative Session and develop, and recommend to the Board for approval, the required legislative reports.

The Board appointed Board Chairperson Bruce Voss, Board Members Shanty Asher and Makana McClellan, and me as members of the 2023 Legislative Investigative Committee with myself serving as chair of the committee.

At the same meeting, the Board also established an ad hoc committee, known as the 2023 Legislative Ad Hoc Committee, with the charge to present, discuss, and negotiate the policy positions to be adopted by the Board for the 2023 Legislative Session through and until governor's last veto deadline for the 2023 Legislative Session, but in no event later than July 31, 2023. The Board appointed the same members and chair to the 2023 Legislative Ad Hoc Committee as it did to the 2023 Legislative Investigative Committee.¹

¹ Board Chairperson Voss's memorandum dated July 14, 2022 describes the establishment of the 2023 Legislative investigative Committee and the 2023 Legislative Ad Hoc Committee and explains the approach for engaging the Legislature for the 2023 Legislative Session. The memorandum is available here: https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_20220714_Action%20on%20Investigative%20and%20Ad%20Hoc%20Committees%20re%202023%20Legislative%20Session.pdf

III. FINDINGS

A. Stakeholders. The 2023 Legislative Investigative Committee finds that meetings with key stakeholders on education policy priorities are crucial to building invaluable relationships with legislative policymaking and advocacy partners. Throughout August, September, and October, committee members met with the following legislators and organizations:

- Senator Donovan Dela Cruz, chair of the Senate Committee on Ways and Means
- Representative Jeanné Kapela, vice chair of the House Committee on Education
- Senator Gilbert Keith-Agaran, vice chair of the Senate Committee on Ways and Means
- Senator Michelle Kidani, chair of the Senate Committee on Education
- Representative Scott Saiki, Speaker of the House of Representatives
- Representative Justin Woodson, chair of the House Committee on Education
- Representative Kyle Yamashita, vice chair of the House Committee on Finance
- ‘Aha Kauleo
- Department of Education
- Early Learning Board and Executive Office on Early Learning
- Hawaii Business Roundtable Education Task Force
- Hawaii Government Employees Association
- Hawaii Public Charter Schools Network
- Hawaii State Public Library System
- Hawaii State Teachers Association
- Hawaii Teachers Standards Board
- HawaiiKidsCAN
- Hui for Excellence in Education (or HE‘E Coalition)
- School Facilities Authority
- Special Education Advisory Council
- State Public Charter School Commission

The 2023 Legislative Investigative Committee finds that although the information received from the stakeholder meetings was informative to the committee’s work, many of the priorities and concerns raised by stakeholders fall outside the scope of the Board’s role and responsibilities or do not relate to legislative policy at the Board’s level. Still, the committee finds the feedback

valuable and potentially informative to the Board's other work, and the committee has summarized the key themes below:

1. Student achievement. Most stakeholders directly or indirectly referenced aspects of student achievement as a priority area. Multiple stakeholders identified access to quality early learning as a high priority. Several legislators and advocacy organizations stressed priorities related to career preparation, including focuses on workforce pathways and career-based learning as well as the promotion of associate's degrees and career and technical education certification for all students. Some legislators and advocacy organizations mentioned the value of expanding alternative learning programs and alternative education. Other priorities related to student achievement include establishing alternative assessments, addressing the achievement gap, reducing suspensions of special education students, and adopting curriculum policies for areas such as financial literacy and mathematics. While not all of these priorities require legislative action, many may require additional funding through legislative appropriations.
2. Workforce development. A number of legislators, advocacy organizations, and agencies identified educator workforce development as a priority area, especially for teachers and early educators. Several mentioned the importance of incentives to attract and retain quality teachers, such as employee housing, competitive teacher compensation, and more teacher preparation and collaboration time. Most, if not all, of these ideas would require additional funding through legislative appropriations.
3. Health and safety. Several stakeholders mentioned priorities related to health and safety in schools, including deterring gang violence, preventing sex trafficking, promoting social-emotional learning and trauma-informed education, and improving health and safety access for charter schools. Most of these priorities do not appear to require legislative action, although some might require additional funding through legislative appropriations.
4. Funding. Most stakeholders brought up priorities that directly relate to funding or require funding to actualize. In addition to the priorities already mentioned in the other categories summarized in this memorandum, stakeholders identified priorities to fund schools in general, library collections to eliminate library fines for children, early

learning (including charter schools), out-of-school time, charter school facilities, multiple charter school authorizers, and the Department's Civil Rights Compliance Branch to handle charter schools in addition to Department schools. All of these items require legislative action to provide additional funds.

5. Communication and relationships. Several legislators emphasized the importance of the Board and Department having clear and transparent communication. Some legislators noted that improved relationships between legislators and Board members would be beneficial. Relatedly, some legislators and advocacy organizations highlighted improved relationships between schools and the families and communities they serve as a need and suggested a number of priorities, including implementing a community schools model, embracing family-school partnerships, and addressing problems with the dispute resolution process for students receiving special education services. The majority of these priorities likely do not require legislative action.
6. Board governance and policy. A few stakeholders identified priorities that would affect the Board's governance or require its policymaking. As to governance, one stakeholder mentioned the importance of having a Board member with Hawaiian language education expertise while another stressed the value of having a teacher member or representative on the Board. A few stakeholders also requested revising or adopting Board policies or administrative rules related to Kaiapuni (Hawaiian language immersion) education, computer science education, charter schools, and public libraries. While the priorities related to the Board's policymaking do not need legislative action, anything changing the Board's governance structure does.
7. Leadership. A few legislators and advocacy organizations mentioned priorities and concerns relating to leadership in the Department. Specifically, a few legislators did not agree with the creation of two additional deputy superintendents, noting concerns about the cost and the amount of work that more high-level employees add to the levels below. A legislator expressed concern about the performance of some complex area superintendents and how the superintendent holds them accountable. An advocacy organization noted that the Board should be seeking input from principals directly, and principals should be listening to teachers. None of these priorities or concerns need legislative action.

- B. Legislative proposals from the Board. Based on the forgoing stakeholder feedback, the 2023 Legislative Investigative Committee finds that it is not necessary for the Board to request any statutory changes through the governor's administrative package at this time and therefore does not recommend that the Board submit any legislative proposals.
- C. Legislative proposals from the Department. The 2023 Legislative Investigative Committee finds that it is unnecessary for the Board to approve any legislative proposals from the Department to be included in the governor's administrative package for the 2023 Legislative Session. The proposals that the Department is considering are largely operational, and the committee does not find that any of the proposals rise to the level of needing approval from the Board. The committee has advised the Department to proceed with its proposals without Board approval.
- D. Legislative policy positions. The 2023 Legislative Investigative Committee finds that only a few changes to the policy positions the Board adopted for the 2022 Legislative Session are necessary for the 2023 Legislative Session. The changes the committee recommends are redlined in **Exhibit B**. While most changes are non-substantive or technical, the committee recommends adding two policy positions relating to early learning.

The first is to support the development of more high-quality early educators. As noted in the stakeholder feedback summary, educator workforce development is a priority area. While the 2022 policy positions already allow the Board to support legislation that increase the compensation for school-level employees in public schools or other workforce development initiatives that are included in the Department's budget, this typically limits the Board to supporting legislative proposals promoting workforce development for K-12 employees. The Early Learning Board and Executive Office on Early Learning are planning to ask for legislation and funding to support early educator workforce development programs. As the Board has established in its many other discussions, quality early education benefits students in their K-12 careers. This additional policy position will allow the 2023 Legislative Ad Hoc Committee to support these legislative requests on behalf of the Board.

The second proposed new policy position is to provide the Board and Department with flexibility to develop and implement a kindergarten entry assessment for all children. This recommendation is a direct result of the discussion at the Board's Student Achievement Committee meeting on October 6, 2022, regarding the kindergarten entry assessment proposed by the

Department. During that discussion, Board members expressed concern about the time it will take to develop an appropriate assessment in the Hawaiian language and requested the Department to pursue a statutory change. This policy position would allow the 2023 Legislative Ad Hoc Committee to support such a change on behalf of the Board.

As noted in the stakeholder feedback summary, several priorities raised by stakeholders may require additional funding. The Board can choose to support these priorities by ensuring they are captured in either the Department or Hawaii State Public Library System's budgets. The Board typically includes a policy position that supports legislation that address the needs identified in the budget requests the Board approves; therefore, it is important for Board members to view the budget requests as another mechanism for setting policy priorities.

The 2023 Legislative Investigative Committee finds that the Board's adoption of the proposed policy positions will allow the 2023 Legislative Ad Hoc Committee to maintain the progress the investigative committee has made through continued engagement with legislators, the Department, and other stakeholders on the Board's legislative priorities.

IV. RECOMMENDATION

The 2023 Legislative Investigative Committee recommends that the Board adopt the policy positions attached as **Exhibit A** to this memorandum for the 2023 Legislative Session.

Proposed Motion: "Moved to adopt the Board policy positions for the 2023 Legislative Session attached as Exhibit A to 2023 Legislative Investigative Committee Chairperson Bill Arakaki's memorandum dated October 20, 2022."

This report completes the 2023 Legislative Investigative Committee's first four tasks in its scope of work. The committee will bring its findings and recommendations on its final task to the Board at a future meeting.

Exhibit A

Proposed Board Policy Positions for the 2023 Legislative Session

BOARD OF EDUCATION 2023 LEGISLATIVE POLICY POSITIONS

DEPARTMENT OF EDUCATION POLICY POSITIONS

The Board supports proposed legislation that addresses the needs identified in the Department's Board-approved biennium operating and capital improvement program budget requests for Fiscal Years 2024 and 2025.

LIBRARIES POLICY POSITIONS

The Board supports proposed legislation that addresses the needs identified in the Hawaii State Public Library System's Board-approved biennium operating and capital improvement program budget requests for Fiscal Years 2024 and 2025.

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 supports measures that seek to reexamine governance, authority, and accountability structures of the charter school system as recommended in the Board's recent annual charter school reports to the Legislature.

EARLY LEARNING POLICY POSITIONS

The Board supports proposed legislation that expands access to quality early learning opportunities for more children.

The Board supports proposed legislation that promotes the development of more high-quality early educators.

The Board supports proposed legislation that provides the Board and Department with necessary flexibility to develop and implement a kindergarten entry assessment that benefits all children entering kindergarten at public schools.

GENERAL POLICY POSITIONS

The Board supports proposed legislation that:

- Increases the compensation of school-level employees in public schools;
- Supports informed decision-making and priority setting through thoughtful and intentional engagement with stakeholders; or
- Improves transparency and access to information to encourage an informed and engaged community of citizens.

The Board opposes proposed legislation that:

- 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 (or heads of other agencies over which the Board has governance authority) rather than remain focused on its constitutional responsibility of policymaking;
- Creates additional duties or responsibilities for the Department or Board without appropriating adequate, commensurate resources to accomplish such duties or responsibilities; or
- Makes the organizational structure and lines of authority within the public education system, including the Department of Education and its attached agencies, less clear and more confusing.

The Board takes no position on legislation relating to the Board's membership, 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 membership matters to enable the Legislature to make informed decisions.

The Board defers to the Department (or its administratively attached agencies when appropriate) on operational and implementation matters.

Exhibit B

**Proposed Board Policy Positions for the 2023 Legislative Session (redlined
against the Board Policy Positions for the 2022 Legislative Session)**

BOARD OF EDUCATION 202~~3~~² LEGISLATIVE POLICY POSITIONS

DEPARTMENT OF EDUCATION POLICY POSITIONS

The Board supports proposed legislation that addresses the needs identified in the Department's Board-approved supplemental biennium operating and Ccapital Iimprovement Program budget requests for Fiscal Years 202~~4~~³ and 2025.

LIBRARIES POLICY POSITIONS

The Board supports proposed legislation that addresses the needs identified in the Hawaii State Public Library System's Board-approved supplemental biennium operating and Ccapital Iimprovement Program budget requests for Fiscal Years 202~~4~~³ and 2025.

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 supports measures that seek to reexamine governance, authority, and accountability structures of the charter school system as recommended in the Board's ~~most~~ recent annual charter school report^s to the Legislature.

EARLY LEARNING POLICY POSITIONS

The Board supports proposed legislation that expands access to quality early learning opportunities for more children.

The Board supports proposed legislation that promotes the development of more high-quality early educators.

The Board supports proposed legislation that provides the Board and Department with necessary flexibility to develop and implement a kindergarten entry assessment that benefits all children entering kindergarten at public schools.

GENERAL POLICY POSITIONS

The Board supports proposed legislation that:

- Increases the compensation of school-level employees in public schools;
- Support^s informed decision-making and priority setting through thoughtful and intentional engagement with stakeholders; ~~and/or~~
- Improve^s transparency and access to information to encourage an informed and engaged community of citizens.

The Board opposes proposed legislation that:

- 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 (or heads of other agencies over which the Board has governance authority) rather than remain focused on its constitutional responsibility of policymaking;
- Creates additional duties or responsibilities for the Department or Board without appropriating adequate, commensurate resources to accomplish such duties or responsibilities; ~~and/or~~
- Makes the organizational structure and lines of authority within the public education system, including the Department of Education and its attached agencies, less clear and more confusing.

The Board takes no position on legislation relating to the Board's membership, 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 membership matters to enable the Legislature to make informed decisions.

The ~~Board's positions on proposed legislation are from a policy-level standpoint, and the~~ Board defers to the Department (or its administratively attached agencies when appropriate) on operational and implementation matters.