



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

July 18, 2024

TO: The Honorable Roy Takumi
Chairperson, Board of Education

FROM: *Keith T. Hayashi on behalf of*
Keith T. Hayashi
Superintendent

SUBJECT: Board Waiver of Minimum Instructional Days and Hours (Pursuant to Section 302A-251, Hawaii Revised Statutes) for Lahainaluna Complex Schools

1. EXECUTIVE SUMMARY

August 8, 2024 will mark the one year anniversary of the Lahaina wildfires which devastated the Lahaina community. Lives were lost, thousands of residents were displaced, many experienced trauma, the start of the 2023-24 school year on Lahainaluna complex school campuses was delayed for students until October 2023, and Kamehameha III Elementary School's historic campus was destroyed. Upon the request of the Maui County Council and in consultation with Maui school leaders, I am recommending that Lahainaluna complex schools be closed on August 8, 2024 to allow employees and students to participate in commemorative events and healing activities.

Closing school on August 8, 2024 will reduce the number of students' school days for the affected schools. This reduction in students' school days requires approval by the Board of Education (Board), since §302A-251, Hawaii Revised Statutes (HRS) permits the Board to waive the requirements (Attachment A), and Board Policy 106-5 (Attachment B) provides criteria for requesting a waiver. Therefore, the Hawaii State Department of Education (Department) recommends that the Board approve a waiver to reduce the statutorily required student school day and hours for Lahainaluna complex schools: King Kamehameha III Elementary School, Princess Nahienaena Elementary School, Lahaina Intermediate School and Lahainaluna High School. Students' school year will be reduced by one day which is equivalent to six hours.

HRS §302A-251(e) provides the Board the authority to "grant a waiver to any individual school subject to the student hours or one hundred eighty-day school year requirements."

Board Policy 106-5 grants waivers “only in extraordinary circumstances...to facilitate student learning and student achievement.”

HRS §302A-1126, Waiver of policy, rule, or procedures (Attachment C) allows the Board to grant one-year general waivers from specific administrative rules, policies, or procedures under its jurisdiction or specific statutory provisions, as allowed by law, to apply to all schools under the same circumstances. Additionally, Hawaii courts have recognized that an agency, such as the board, has express statutory and also implied authority to implement a law. See, Morgan v. Planning Department, County of Kauai, 104 Haw. 173, 86 p.3d 982 (2004). However, it is well established that an administrative agency’s authority includes those implied powers that are reasonably necessary to carry out the powers expressly granted.

2. RECOMMENDATION

The Department recommends that the Board grant a waiver of the school days and student hours requirements of HRS §302A-251 for Lahainaluna complex schools – King Kamehameha III Elementary School, Princess Nahienaena Elementary School, Lahaina Intermediate School and Lahainaluna High School – for the 2024-25 school year to allow for closure of schools on August 8, 2024.

3. RECOMMENDED EFFECTIVE DATE

Upon Board approval.

4. RECOMMENDED COMPLIANCE DATE

Upon Board approval.

5. DISCUSSION

a. Conditions leading to the recommendation:

We deeply respect and support the ongoing recovery efforts on Maui, and we also remain committed to ensuring students' well-being, development and academic success and providing essential support and resources at our schools, such as additional behavioral health specialists on campus.

On June 21, 2024, the Maui County Clerk transmitted Resolution 24-114 FD1, which was adopted by the Council of the County of Maui, “urging the State Department of Education to reschedule the first day of the 2024-25 school year for Maui County” (Attachment D).

In consideration of all of the factors, in consultation with Lahaina school leaders, in respect of the significant impact of the wildfires and to provide the opportunity to honor and remember the people and places lost, I am recommending that the four Lahainaluna complex schools be closed on Thursday, August 8, 2024.

Section 302A-251, Hawaii Revised Statutes, requires a minimum of 180 school days and 1,080 hours for students each school year. Closing school on August 8 requires a waiver by the Board of Education since students will have one less school day.

b. Previous action of the Board on the same or similar matter:

On April 25, 2024, the Board approved School Community Council waiver requests from Lahainaluna complex schools for the 2024-25 school year.

Table 1: School days for Lahainaluna complex schools, 2024-25 school year

School	Number of school days/hours waived by the Board of Education for the 2024-25 school year, as of April 25, 2024	Proposed number of school days/hours for the 2024-25 school year (presuming Board waiver for August 8, 2024 is approved)
King Kamehameha III Elementary	4 days/ 24 hours	175 days/ 1,050 hours
Princess Nahienaena Elementary	4 days/ 24 hours	175 days/ 1,050 hours
Lahaina Intermediate	4 days/ 24 hours	175 days/ 1,050 hours
Lahainaluna High	2 days/ 12 hours	177 days/ 1,062 hours

On February 22, 2024, the Board approved a waiver of minimum instructional days and hours for Maui schools for the 2023-24 school year as a result of Hurricane Dora and Maui wildfires. The Board waived the following school days and hours or Lahainaluna complex schools:

Table 2: School days waived for Lahainaluna complex schools, 2023-24 school year

School	Number of school days waived for 2023-24 school year	Number of school hours waived for 2023-24 school year
King Kamehameha III Elementary	51	306
Princess Nahienaena Elementary	46	276
Lahaina Intermediate	45	270
Lahainaluna High	28	168

The days and hours waived represent the school days and hours that the schools remained closed. Lahainaluna complex students were offered alternative learning (e.g., distance learning, enrollment in other schools, Kaiapuni huaka'i) while school campuses were closed following the wildfires; these alternatives were optional though many students participated.

c. Other policies affected:

None.

d. Arguments in support of the recommendation:

As stated in the Council of Maui County’s Resolution 24-114, FD 1 (Attachment D), “August 8, 2024 will mark one year since the Lahaina wildfires took the lives of 101 people, displaced thousands and caused incalculable trauma to the families of Maui County.” Lahainaluna complex employees, students and school communities were significantly impacted, and the Department recommends a waiver of school days for students to close schools on August 8, 2024 out of respect for the one-year anniversary of the Lahaina wildfires. Closure will allow employees and students to participate in remembrances.

As required by Board Policy 106-5, the Department and schools considered alternatives to closing on August 8, 2024. For example, Department employees who plan to participate in remembrances during the school day have the option to take personal leave. The schools’ principals anticipate that many employees and students will participate in off-campus commemorative events and other remembrances. We are concerned that there would be insufficient staffing to support a safe school environment for students on August 8, 2024.

Schools will open, as scheduled, for the first day of school during the week of August 5:

Table 3: First day for students for Lahainaluna complex schools, 2024-25 school year

School	First day of school for students
King Kamehameha III Elementary	August 7
Princess Nahienaena Elementary	August 7
Lahaina Intermediate	August 7
Lahainaluna High	August 6 - Freshmen Orientation August 7 - All Students

Note: While the first day for students is August 5 on the Department’s official school calendar, schools have flexibility to determine instructional days. Each school plans for two “planning and collaboration days” and any additional non-instructional days/hours approved by the Board through the School Community Council waiver process (see Table 2 for days/hours waived for Lahainaluna complex schools).

Lahainaluana complex schools will close on August 8 and will reopen on August 9. We also remain committed to ensuring students' academic well-being and providing essential support and resources at our schools, such as additional behavioral health specialists on campus. Each school has its own activities planned for the first week of school which includes remembrances among their school community.

e. Arguments against the recommendation:

- Consistent with the Council of Maui County's resolution, some may argue for a longer closure and that all schools in Maui County be closed for August 8. The Council of the County of Maui requested that all schools be closed for the week of August 5, including August 8 (Attachment D).
- Employees may request leave to commemorate the anniversary, so school does not need to be closed for interested employees to participate in remembrances. Department employees who plan to participate in remembrances during the school day have the option to take personal leave.
- School does not need to be closed for all students. If a student misses August 8 in recognition of the anniversary, they will be afforded the opportunity to make up any missed assignments.
- Closing Lahainaluna complex schools on August 8, 2024 will result in students losing a school day, further reducing the number of school days since the wildfires.
- Since August 8 is a part of the previously published school calendar for the 2024-25 school year, parents had anticipated that children would be in school, and they will now need to make other arrangements for supervision of their children.

f. Other agencies or departments for the State of Hawaii involved in the action:

The Council of the County of Maui requested that the State Department of Education "reschedule the first day of the 2024-25 school year for Maui County" (Attachment D).

g. Possible reaction of the public, professional organizations, unions, Department staff and/or others to the recommendations:

The Hawaii State Teachers Association, Hawaii Government Employees Association and United Public Workers have been informed of the recommendation that August 8, 2024 be waived as a school day for students for the Lahainaluna complex schools.

h. Educational implications:

- Students will have one less school day for 2024-25 school year.
- Students will have the opportunity to participate in commemoration activities with their families and the community. This supports students' social emotional health and facilitates healing.
- If students miss school days during the week of the anniversary, they will be afforded the opportunity to make up any missed assignments.

i. Personnel implications:

- Upon the Board's approval of the waiver of school days for students, the Superintendent will grant Lahainaluna complex schools' employees an administrative leave day on August 8, 2024.
- Salaried employees (approximately 300) will be granted paid leave (i.e., administrative leave) on August 8.
- Casual employees (approximately 250) will not have the opportunity to work on August 8.

j. Facilities implications:

None.

k. Financial implications:

None.

6. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

KTH:toc

Attachments: Attachment A: Section 302A-251, Hawai'i Revised Statutes: School year; student hours
Attachment B: Policy 106-5, State of Hawai'i Board of Education: Student instructional hours and school year requirements policy and waiver process
Attachment C: Section 302A-1126, Hawai'i Revised Statutes: Waiver of policy, rule or procedures.
Attachment D: Council of the County of Maui Resolution 24-114 FD1

c: Rebecca Winkie, Hana-Lahainaluna-Lanai-Molokai Complex Area Superintendent
Ian Haskins, King Kamehameha III Elementary School Principal
Gary Kanamori, Princess Nahienaena Elementary School Principal
Stacy Bookland, Lahaina Intermediate School Principal
Richard Carosso, Lahainaluna High School Principal

B. Curriculum and Instruction

Law Journals and Reviews

Helping Hawaii's Diverse Community of English Language Learners:
Does the Hawai'i Department of Education Meet Federal Standards for
English Language Learner Programs? 38 UH L. Rev. 35 (2016).

§302A-251 School year; student hours. (a) Notwithstanding any other law to the contrary, beginning with the 2011-2013 school years, all public schools, excluding charter schools and multi-track public schools, shall implement a school year of one hundred eighty days, excluding professional development days and other non-instructional days negotiated pursuant to chapter 89.

(b) Notwithstanding any other law to the contrary:

- (1) For the 2011-2012 school year, fifty per cent of all public elementary schools in the State, excluding charter schools and multi-track public schools, shall implement a school year that includes nine hundred fifteen student hours; and
- (2) Beginning with the 2012-2013 school year, all public elementary schools in the State, excluding charter schools and multi-track public schools, shall implement a school year that includes nine hundred fifteen student hours.

(c) Notwithstanding any other law to the contrary, for the 2015-2016 school year, all public secondary schools, excluding charter schools and multi-track public schools, shall implement a school year that includes nine hundred ninety student hours.

(d) Notwithstanding any other law to the contrary, beginning with the 2016-2017 school year, all public schools, excluding charter schools and multi-track public schools, shall implement a school year of one hundred eighty days, excluding professional development days and other non-instructional days negotiated pursuant to chapter 89, that shall include one thousand eighty student hours for both elementary and secondary school grades.

(e) The board, in its discretion, may grant a waiver to any individual school subject to the student hours or one hundred eighty day school year requirements in this section. The board shall adopt policies and procedures to grant a waiver under this subsection.

(f) For purposes of this section, "student hours" shall be inclusive of the full school day in alignment with the State's general learner

outcomes.

(g) The department of education, with the board of education and office of the governor, and in consultation with representatives of the affected collective bargaining units, shall submit to the legislature, no later than twenty days prior to the convening of the regular sessions of 2013, 2014, 2015, and 2016, a report on its progress and efforts to meet the requirements of subsections (a), (b), (c), and (d). [L 2010, c 167, §3; am L 2011, c 52, §1; am L 2015, c 21, §1]

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POLICY 106-5**STUDENT INSTRUCTIONAL HOURS AND SCHOOL YEAR REQUIREMENTS POLICY AND WAIVER PROCESS**

Upon application to the Board of Education ("Board") a school may be granted waivers from student instructional hours and school year requirements pursuant to HRS 302A-251. The Department of Education shall administer such procedures as may be adopted by the board.

Notwithstanding the multi-track public schools exemption from HRS 302A-251 requirements, multi-track public schools shall adhere to no less than 95% of the statutorily required days in a school year pursuant to HRS 302A-251. Multi-track public schools may, however, request a waiver under this policy.

Waivers shall be granted only in extraordinary circumstances. Waivers are intended to facilitate student learning and student achievement by enhancing school-level flexibility. Schools are expected to explore alternate solutions before seeking waivers.

Any school requesting a waiver shall ensure that such waiver aligns with its Academic and Financial Plan and demonstrate, with specificity, (1) the circumstances unique to the school justifying the waiver, (2) significant harm to students' learning and students' achievement should the waiver not be granted, (3) the school's plan to exit the waiver and achieve full compliance with the statutory requirements, (4) whether the complex area superintendent and the superintendent concur with the request, (5) whether other applicable processes noted in the Board Policy entitled "School Community Council Waivers and School Community Council Exceptions Policy" were completed, and (6) alternatives considered or implemented by the school prior to requesting the waiver.

The Board may grant waivers for no longer than one school year.

Due to the scope of the justification for the waiver, the principal of the applicant school shall present the request to the Board.

[Approved: 06/07/2016 (as Board Policy 106.5); amended: 06/21/2016 (renumbered as Board Policy 106-5)]

Former policy 2413 history: approved: 07/16/2013

§302A-1126 Waiver of policy, rule, or procedures. 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. [L 1996, c 89, pt of §2; am L 2004, c 51, §26]

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Resolution

No. 24-114, FD1

URGING THE STATE DEPARTMENT OF EDUCATION TO RESCHEDULE THE FIRST DAY OF THE 2024-2025 SCHOOL YEAR FOR MAUI COUNTY

WHEREAS, Thursday, August 8, 2024, will mark one year since the Lāhainā wildfires took the lives of 101 people, displaced thousands, and caused incalculable trauma to the families of Maui County; and

WHEREAS, many survivors continue to be affected by the emotional, psychological, physical, and financial impacts of this tragedy; and

WHEREAS, to recover, the community must be given sufficient opportunities to grieve and to heal; and

WHEREAS, the destruction of West Maui schools disrupted the lives of countless students, many of whom are enrolled in new schools in other districts; and

WHEREAS, the State Department of Education has announced that the 2024-2025 school year will begin Monday, August 5, 2024; and

WHEREAS, every effort should be made to allow students of Maui County the opportunity to participate in commemorative events and healing activities related to the wildfires and to acknowledge the community's strength and resiliency; and

WHEREAS, deferring the first day of school for Maui County to Monday, August 12, 2024, would provide a meaningful gesture of support and recognition for those affected by the wildfires and would allow a more gradual transition into the new school year; now, therefore

BE IT RESOLVED by the Council of the County of Maui:

1. That it urges the State Department of Education to reschedule the first school day of the 2024-2025 school year for Maui County to Monday, August 12, 2024; and

Resolution No. 24-114, FD1

2. That certified copies of this Resolution be transmitted to Keith T. Hayashi, Superintendent, Hawai'i State Department of Education; Rebecca Winkie, Complex Area Superintendent, Hāna-Lahaianaluna-Lāna'i-Moloka'i District, Hawai'i State Department of Education; Desiree Sides, Complex Area Superintendent, Baldwin-Kekaulike-Kūlanihāko'i-Maui District, Hawai'i State Department of Education; Roy Takumi, Chairperson, State of Hawai'i Board of Education, State of Hawai'i; the Honorable Josh Green, M.D., Governor, State of Hawai'i; and the Honorable Richard T. Bissen, Jr., Mayor, County of Maui.

paf:sgt:24-159

INTRODUCED BY:

Tamara A.M. Paltin

TAMARA PALTIN


COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 24-114, FD1 was adopted by the Council of the County of Maui, State of Hawaii, on the 21st day of June, 2024, by the following vote:

MEMBERS	Alice L. LEE Chair	Yuki Lei K. SUGIMURA Vice-Chair	Tom COOK	Gabriel JOHNSON	Natalie A. KAMA	Tamara A. M. PALTIN	Koani N. W. RAWLINS-FERNANDEZ	Shane M. SINENCI	Nohelani U'U-HODGINS
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused



COUNTY CLERK