



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

December 3, 2020

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 2021 Legislative Session

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**I. BACKGROUND**

For the past two 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 for 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 co-policy making counterpart.

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.<sup>1</sup> The Board’s bylaws allow the Board Chairperson 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.<sup>2</sup> The Board must approve the charge of the ad hoc committee.

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<sup>1</sup> 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.”

<sup>2</sup> By-Laws of the Hawaii State Board of Education, Article V, Section 5.5, 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. As Board Chairperson, I hereby authorize the creation of the 2021 Legislative Ad Hoc Committee and appoint the following members to such committee: Board Members Lynn Fallin, Kili Namau'u, and Bruce Voss as 2021 Legislative Ad Hoc Committee Members and myself, serving as 2021 Legislative Ad Hoc Committee Chairperson. All members of the committee will have the authority to present, discuss, or negotiate any of the policy positions the Board adopted 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 2021 Legislative Session or any amendments to existing policy positions for the 2021 Legislative Session. The 2021 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. The authority of the 2021 Ad Hoc Committee shall extend through and until July 31, 2021.

## **II. RECOMMENDATION**

I recommend that the Board approve the assignment of Board Chairperson Catherine Payne and Board Members Lynn Fallin, Kili Namau'u, and Bruce Voss to a permitted interaction group formed pursuant to Hawaii Revised Statutes Section 92-2.5(b)(2), entitled "Permitted Interactions of Members" to present, discuss, or negotiate the policy positions the Board adopted at its December 3, 2020 Special Meeting and any new or amended policy positions the Board adopts for the 2021 Legislative Session with the authority described in this memorandum through and until Governor's last veto deadline for the 2021 Legislative Session, but in no event later than December 2, 2021.

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"Ad Hoc Committees. The board Chairperson 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 of such ad hoc committee(s). The Board shall approve the charge of any ad hoc committee. Such 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."