

**HAWAII ADMINISTRATIVE RULES**

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 517

CHARTER CONTRACT TRANSFERS

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§8-517-1 Purpose. This chapter governs the transfer of charter contracts between authorizers. [Eff FEB 18, 2017]  
(Auth: HRS §302A-1112) (Imp: HRS §§302D-11, 302D-20)

§8-517-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:  
"Authorizer" means an authorizer as defined in section 302D-1, Hawaii Revised Statutes, and includes the state public charter school commission.  
"Board" means the board of education.  
"Charter contract" means a charter contract as defined in section 302D-1, Hawaii Revised Statutes.

"Chartering authority" means the authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with charter applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts in accordance with chapter 302D, Hawaii Revised Statutes.

"Charter school" means a charter school as defined in section 302D-1, Hawaii Revised Statutes.

"Charter transfer" means the transfer of a charter contract and the oversight of the charter school whose governing board holds that contract from one authorizer to another.

"Governing board" means a governing board as defined in section 302D-1, Hawaii Revised Statutes. [Eff FEB 18, 2017] (Auth: HRS §302A-1112) (Imp: HRS §§302D-1, 302D-11, 302D-20)

§8-517-3 Transfer application and process. (a) The board shall develop an application form and process for charter transfers in accordance with this chapter. The charter transfer application and approval process shall provide for and include, at a minimum, the following elements:

- (1) The submission of a charter transfer application to the board;
- (2) An opportunity for the public to comment on any proposed charter transfer; and
- (3) A timely decision by the board on whether to allow the transfer.

(b) The following requirements shall apply to any and all charter transfers:

- (1) No charter school shall be allowed to transfer its charter contract to another authorizer in an attempt to reduce the level of oversight or accountability to which the charter school is currently subject or to avoid possible revocation or nonrenewal of its charter contract;
- (2) No authorizer shall be allowed to transfer a charter contract to another authorizer in an attempt to improve the overall performance of its own portfolio of charter schools or to avoid possible revocation or nonrenewal of the charter contract;

(3) An authorizer shall not agree to accept a charter transfer nor shall it deny a charter transfer based on any financial incentives a larger portfolio of schools may provide to that authorizer;

(4) A charter school whose authorizer has initiated a closure of the school shall not be allowed to secure a charter contract from another authorizer;

(5) Existing charter schools shall not be allowed to apply for a charter school under another authorizer as a way of de facto transferring oversight of the school from one authorizer to another and circumventing the charter transfer process; provided that nothing in this chapter shall be construed to prevent existing charter schools from applying to another authorizer for replication or expansion purposes;

(6) Authorizers shall share among themselves information on charter schools that are transferring between them; and

(7) All charter transfers shall be in the best interest of students. [Eff FEB 18, 2017] (Auth: HRS §302A-1112) (Imp: HRS §§302D-11, 302D-20)

§8-517-4 Transfers at the end of a charter contract term.

(a) The transfer of a charter contract that is in its final contract year shall only be allowed if the governing board has met the terms of its expiring charter contract with its current authorizer, including any performance requirements, to a degree that would have otherwise resulted in charter contract renewal with the current authorizer, and the proposed new authorizer agrees to accept the charter transfer; provided that the requirements in section 8-517-3(b) are met. The authorizer that is a party to the existing charter contract shall inform the proposed authorizer about the academic, financial, organizational, and operational performance status of the charter school, as well as any outstanding contractual obligations that exist.

(b) The governing board shall submit to the board and its current authorizer a written and signed letter of its intent to not renew the charter contract. The proposed authorizer and the governing board shall jointly submit to the board a charter

transfer application. A proposed charter contract between the proposed authorizer and the governing board shall be submitted as part of the charter transfer application and shall identify and provide a plan to address any outstanding obligations from the existing charter contract.

(c) The charter transfer application shall be submitted and reviewed in accordance with the form and process establish pursuant to section 8-517-3(a); provided that the board shall make a final determination on the charter transfer application no later than sixty days before the expiration of the current charter contract.

(d) If the charter transfer is approved, the new authorizer and the governing board shall enter into a new charter contract effective upon the expiration of the charter contract between the current authorizer and governing board.

(e) If the charter transfer is not approved, the governing board may withdraw its letter of nonrenewal and proceed with its current authorizer's charter contract renewal process. If the charter transfer is not approved and the governing board does not withdraw its letter or enter into a new charter contract with its current authorizer, the charter contract shall be considered nonrenewed, and the charter school shall close in accordance with applicable law and the terms of the charter contract, unless the board requires a temporary extension of the charter contract, upon such terms and conditions it deems appropriate, for unique or extenuating circumstances. [Eff FEB 18, 2017] (Auth: HRS §302A-1112) (Imp: HRS §§302D-18, 302D-20)

§8-517-5 Transfers before the end of a charter contract term. (a) The transfer of a charter contract that is not in its final contract year shall only be allowed under special circumstances pursuant to section 302D-20, Hawaii Revised Statutes; provided that the requirements in section 8-517-3(b) are met.

(b) An authorizer or a governing board may submit to the board a written and signed letter requesting the transfer of a charter contract to another authorizer; provided that an authorizer may submit a letter only with the mutual consent of the governing board. The letter shall explain the reason for the request, provide evidence that the transfer is in the best

interest of the charter school's students, and identify the proposed new authorizer that has agreed to the proposed transfer. The authorizer that is a party to the existing charter contract shall inform the proposed authorizer about the academic, financial, organizational, and operational performance status of the charter school, as well as any outstanding contractual obligations that exist.

(c) The proposed authorizer and the governing board shall jointly submit to the board a charter transfer application. A proposed charter contract between the proposed authorizer and the governing board shall be submitted as part of the charter transfer application and shall identify and provide a plan to address any outstanding obligations from the existing charter contract.

(d) The charter transfer application shall be submitted and reviewed in accordance with the form and process established pursuant to section 8-517-3(a); provided that the board shall make a final determination on the charter transfer application no later than May 1; provided further that the letter requesting the transfer and the charter transfer application are submitted by February 1 of the same school year.

(e) If the charter transfer is approved, the new authorizer and the governing board shall enter into a new charter contract effective July 1 of the next school year. The effectuation of the new charter contract shall terminate the previous charter contract. [Eff FEB 18, 2017] (Auth: HRS §302A-1112) (Imp: HRS §302D-20)

§8-517-6 Transfers due to termination of authorizer's chartering authority. (a) If an authorizer's chartering authority is terminated due to the revocation, nonrenewal, or voluntary surrender of its authorizing contract, the transfer of any charter contracts overseen by that entity shall be allowed; provided that the requirements in section 8-517-3(b) are met. The entity whose chartering authority is terminated shall inform the board about the academic, financial, organizational, and operational performance status of each charter school in its portfolio, as well as any outstanding contractual obligations that exist.

(b) Each governing board overseen by the entity whose chartering authority is terminated shall submit to the board a charter transfer application.

(c) The board shall solicit from the pool of existing authorizers a new authorizer for each charter school overseen by the entity whose chartering authority is terminated. Each proposed charter transfer shall be with the mutual agreement of the proposed new authorizer and governing board; provided that if no other authorizer agrees or is available to accept the transfer of a charter contract overseen by the entity whose chartering authority is terminated, the state public charter school commission shall be the new authorizer for that charter school.

(d) Each charter transfer application shall be submitted and reviewed in accordance with the form and process established pursuant to section 8-517-3(a) or a special expedited process developed and adopted by the board notwithstanding section 8-517-3(a); provided that the board shall make a final determination on each charter transfer application within forty-five days of the termination of the former authorizer's chartering authority but no later than sixty days before the start of the next school year.

(e) Upon the approval of each charter transfer, the new authorizer and the governing board shall enter into a new charter contract effective immediately. Any new charter contract shall be effective for the remainder of the contract term under the previous charter contract with the previous authorizer. Notwithstanding section 8-517-4, if the remaining term of the charter contract with the previous authorizer is less than a year, the new authorizer and governing board shall enter into a new charter contract with a contract term no less than a year. [Eff FEB 18, 2017] (Auth: HRS §302A-1112) (Imp: HRS §§302D-11, 302D-20)

§8-517-7 Computation of time. (a) The time in which any act provided in this chapter is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday and then it is also excluded. When the prescribed period of time is less than seven

days, Saturdays, Sundays, or state holidays within the designated period shall be excluded in the computation.

(b) For the purposes of this chapter, "school year" means a year that begins on July 1 and ends on June 30 of the following calendar year. [Eff FEB 18, 2017] (Auth: HRS §302A-1112) (Imp: HRS §91-2)