



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 901, H.D. 1, RELATING TO PUBLIC CHARTER SCHOOLS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Friday, February 21, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Anne T. Horiuchi or Randall M. Wat, Deputy Attorneys General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill authorizes public charter schools to appeal directly to the Board of Education on matters regarding the schools' operations, governance, or funding, with certain exceptions.

In section 2 of the bill, the proposed new section 302D-15(b), Hawaii Revised Statutes (HRS), provides that any public charter school shall be entitled to initiate an "administrative appeal directly" to the Board of Education (BOE) on certain matters. Page 2, lines 5-15. Currently, appeals to the BOE pursuant to section 302D-15(a), HRS, require an exhaustion of administrative remedies—e.g., a proceeding before the Charter School Commission (Commission) with the presentation of evidence. Because the amendment would be a direct appeal that does not require an exhaustion of remedies, the Department recommends removing the word "administrative" from page 2, line 6, to clarify that the exhaustion of administrative remedies before the Commission is not required for appeals brought pursuant to new section 302D-15(b), HRS.

Additionally, as written, the bill does not clearly define the events that would be directly appealable to the BOE. To effectuate the intent of the bill, the Department

suggests replacing the amendments to section 302D-15, HRS, in the bill on page 1, line 10, through page 3, line 2, with the following:

§302D-15 Appeals; charter applications, renewals, or revocations. (a) The board ~~[shall have the power to]~~ may decide appeals of decisions by an authorizer to deny the approval of a charter application, deny renewal of a charter contract, or revoke a charter school's charter contract. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter application has been denied, whose charter contract renewal has been denied, or whose charter contract has been revoked may initiate an appeal under this section for cause. Grounds for an appeal of non-renewal of a charter contract or revocation of a charter contract may include the authorizer's allegation of procedural errors, statutory violations, or lack of compliance with contractual obligations by the charter school. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal.

(b) The board may decide appeals of an adverse decision by an authorizer regarding a charter school's operation, governance, or funding; provided that matters regarding negative performance reviews are not subject to appeal to the board. An appeal of an adverse decision under this section shall be filed with the board within twenty-one calendar days of the receipt of the notification of the adverse decision. Only a charter school that is subject to the adverse decision may initiate an appeal under this section for cause. The board shall review an appeal of an adverse decision and issue a final decision within sixty calendar days of the filing of the appeal.

~~[(b)]~~ (c) The board shall serve as the final arbitrator of appeals authorized by ~~[subsection]~~ subsections (a)[-] and (b).

~~[(e)]~~ (d) [A] Except as otherwise provided in subsection (b), a party shall not be entitled to a hearing before the board under this section until it has exhausted all available administrative remedies.

~~[(d)]~~ (e) The board shall adopt rules pursuant to chapter 91 to implement this section.

These amendments clarify a charter school's expanded rights to appeal and the BOE's subject matter jurisdiction to entertain charter school appeals.

Thank you for the opportunity to provide comments on this bill.



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

House Committee on Judiciary & Hawaiian Affairs

Friday, February 21, 2025

2:00 p.m.

Hawaii State Capitol, Room 325

Measure: House Bill 901 HD1, Relating to Public Charter Schools

Purpose of Measure:

Authorizes public charter schools to appeal directly to the Board of Education on matters regarding the schools' operations, governance, or funding, with certain exceptions. Effective 7/1/3000.

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Board of Education (Board) respectfully offers comments on House Bill 901 HD1.

As the State Board of Education, the Board's responsibilities toward the charter schools are limited in scope and focused on the system level – they relate specifically to the appointment of commissioners to the State Public Charter Commission (Commission), and to adjudicatory functions related to charter school authorizing. We believe that appeals of the charter schools themselves are properly within the role of the Commission.

Mahalo for this opportunity to testify on behalf of the Board.

JOSH GREEN, M.D.
GOVERNOR



MAKALAPUA ALENCASTRE, ED. D.
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
('AHA KULA HO'ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1164 Bishop Street, Suite 1100, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB 901 HD1 Relating to Public Charter Schools
DATE: February 21, 2025
TIME: 2:00 P.M.
COMMITTEE: Committee on Judiciary & Hawaiian Affairs
ROOM: Conference Room 325 & Videoconference
FROM: Ed H. Noh, Ed. D., Executive Director
State Public Charter School Commission

Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

The State Public Charter School Commission ("Commission") appreciates the opportunity to offer testimony with **COMMENTS on HB 901 HD1** which authorizes public charter schools to appeal directly to the Board of Education on matters that materially affect the school's operation, governance, or funding.

The Commission takes no position on the amendments proposed in this measure, provided that the suggested amendments do not negatively impact or conflict with the following sections of the charter school statute, Chapter 302D, Hawaii Revised Statutes:

- Section 302D-5 Authorizer powers, duties, and liabilities;
- Section 302D-6 Principles and standards of charter authorizing; and
- Section 302D-17 Ongoing oversight and corrective actions.

The Commission also defers to the Board of Education on any additional administrative impacts that an expansion of charter school appeals may have.

Thank you for the opportunity to provide this testimony.



Testimony in Strong Support of House Bill 901

***JHA on Thursday, 02-21-25 2:00PM in House
conference room 325***

Aloha Chair Tarnas, Vice Chair Poepoe and members of the House Committee on Judiciary & Hawaiian Affairs,

The Hawaii Public Charter Schools Network would like to express our strong support for HB 901, a bill that would authorize public charter schools to appeal directly to the Board of Education (BOE) on matters that materially affect their operation, governance, or funding.

The need for HB 901 is underscored by a series of concerning actions by the State Public Charter School Commission (Commission) that have created an environment of coercion and limited charter schools' ability to operate with autonomy and flexibility. The Commission's practice of conditioning per-pupil funding on the acceptance of potentially objectionable contract terms has left schools with an untenable choice: accept the terms or risk closure due to lack of funding. This practice raises due process concerns and violates the Equal Protection Clause of the Fourteenth Amendment, as charter schools are treated differently than traditional public schools without a rational basis.

Furthermore, the Commission has repeatedly demonstrated a disregard for the principles of bilateral contracts and meaningful negotiations. Their actions suggest a pattern of obstruction and a deliberate attempt to silence the voices of Hawaii's public charter schools. The Commission's refusal to engage in meaningful negotiations and its imposition of unilaterally crafted performance contracts directly contradict the spirit and intent of BOE Policy E-700, which emphasizes local control over education.

The Commission's actions have not only created a deep divide between charter schools and the Commission, but they have also infringed upon the legal rights of parents who have enrolled their children in charter schools. This lack of accountability and transparency has led to general cynicism and distrust in the charter school system. HB 901 would address these issues by providing charter schools with a more direct and accessible appeals process. This would allow schools to challenge Commission decisions that materially affect their operation, governance, or funding, without having to wait for a non-renewal or revocation decision.

By providing a more robust appeals process, HB 901 would promote greater accountability and transparency in the charter school system. It would also help to ensure that charter schools are able to operate with greater autonomy and flexibility, which is essential to their mission of innovation and educational excellence. Charter schools are founded on the principles of autonomy, flexibility, and innovation. HB 901 would help to protect these principles by ensuring that charter schools have a meaningful voice in decisions that affect their operations.

This committee's support for HB 901 would help to create an environment where charter schools can continue to thrive and provide high-quality educational options for students. Charter schools offer parents greater choice and control over their children's education. HB 901 would also help ensure that parents have a say in decisions that affect their children's schools. HB 901 is a much-needed reform that would strengthen the charter school system in Hawaii.

We urge the Committee to pass this bill and give charter schools the tools they need to succeed.