

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
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FOR: HB 901 Relating to Public Charter Schools
DATE: February 6, 2025
TIME: 2:00 P.M.
COMMITTEE: Committee on Education
ROOM: Conference Room 309 & Videoconference
FROM: Ed H. Noh, Ed. D., Executive Director
State Public Charter School Commission

Chair Woodson, Vice Chair La Chica, and members of the Committee:

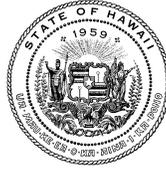
The State Public Charter School Commission (“Commission”) appreciates the opportunity to offer testimony with **COMMENTS on HB 901** which authorizes public charter schools to appeal directly to the Board of Education on matters that materially affect the school’s operation, governance, or funding.

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.



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

House Committee on Education
Thursday, February 6, 2025
2:00 p.m.
Hawaii State Capitol, Room 309

Measure: House Bill 901, 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.

Aloha Chair Woodson, Vice Chair La Chica, and Members of the Committee:

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

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 related 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.



**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, RELATING TO PUBLIC CHARTER SCHOOLS.

BEFORE THE:

HOUSE COMMITTEE ON EDUCATION

DATE: Thursday, February 6, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309

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

Chair Woodson 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
WAI'ALAE ELEMENTARY PUBLIC CHARTER SCHOOL
1045 NINETEENTH AVENUE
HONOLULU, HAWAII 96816

LATE

Testimony in Support of H.B. 901 Relating to Public Charter Schools

Dear Chair and Members of the Committee:

As the Interim Head of School at Wai'ala'e Elementary Public Charter School, Hawai'i's first charter school, I write in support of H.B. 901, which would authorize public charter schools to appeal directly to the Board of Education on matters regarding school operations, governance, and funding.

For 25 years, Wai'ala'e has been at the forefront of Hawai'i's charter school movement, creating student-centered, joyful learning communities that prepare students with the 21st Century skills they need to engage in a democratic society. I want to underscore the importance of having clear processes for addressing concerns that materially affect our schools' ability to serve our students and communities.

This bill creates a vital avenue of recourse for charter schools faced with adverse actions or decisions that impact their operations, while appropriately maintaining authorizer autonomy over performance reviews and standard non-renewal decisions. The appeal process outlined in this bill provides important checks and balances in the charter school system while preserving accountability.

I do want to note one consideration for the committee: it will be important to ensure the BOE has adequate resources and capacity to handle these appeals in a timely manner without creating bottlenecks in their other essential functions. Perhaps the committee could consider adding provisions about staffing or process requirements to address this concern.

Overall, this legislation strengthens Hawai'i's charter school system by providing appropriate oversight and appeals mechanisms while maintaining high standards of accountability. I urge you to vote "yes" on H.B. 901.

Me ka ha'aha'a,

A handwritten signature in black ink, appearing to read "Koulau Fogarty".

Interim Head of School
Wai'ala'e Elementary Public Charter School



Testimony in Strong Support of House Bill 901

***EDN on Thursday, 02-06-25 2:00PM in House
conference room 309***

Aloha Chair Woodson, Vice Chair La Chica and members of the House Committee on Education,

The Hawaii Public Charter School Commission (Commission) has hindered the Hawaii Public Charter School Network's (HPCSN) mission to empower, support, and unify charter schools in Hawaii. This was evident in their denial of petitions for administrative rules submitted by five HPCSN board members, representing five separate schools. This was the fifth time the Commission rejected such petitions. Administrative rules are created by state agencies to provide more specific guidance and regulations within the framework of existing laws. They are necessary because laws often cannot address every detail of implementation. Once a rule is properly adopted and filed, it becomes legally binding. It can be used to interpret and implement broader statutes.

These petitions aimed to address concerns about the lack of proper charter school contract negotiations. Despite repeated attempts to communicate these concerns, the Commission continues to misinterpret the term "bilateral contracts," forcing unilateral contracts onto schools and leaving no room for negotiation. This forces schools to accept the Commission's terms or risk funding cuts.

The Commission also disregards its own rules. The HPCSN board members' petitions for rulemaking, submitted on May 2nd, 2024, should have received a response within 30 days, according to the Commission's established rules. However, the Commission missed the deadline and improperly included the petitions as decision items on their June 13, 2024, meeting agenda, violating their own rules that prohibit public hearings or decision-making on petitions during the initial phase.

To empower, support, and unify charter schools and the charter school system in the State of Hawai'i

Furthermore, the Commission has ignored the Board of Education's (BOE) most recent evaluation and its mandated actions for improvement. This evaluation highlighted the need for clear contract negotiations and a mutual understanding of school autonomy. The Commission's lack of response suggests a lack of accountability and commitment to improving the charter school system.

The BOE's evaluation specifically identified the need for clarity regarding school autonomy and accountability within charter school contracts. It emphasized the importance of clearly outlining the roles, responsibilities, and obligations of both the school and the Commission in the charter contract. The evaluation also called for clearer provisions related to contract amendments and performance frameworks.

This pattern of behavior from the Commission shows a disregard for the BOE's policies and a lack of commitment to improving the charter school system. The Commission's actions undermine the autonomy of charter schools and hinder their ability to effectively serve their students.

Therefore, we urge you to support HB 901. This bill would provide a critical avenue for charter schools to appeal directly to the BOE when faced with adverse actions or decisions by the Commission. By supporting HB 901, you can help ensure that charter schools are treated fairly, their autonomy is protected, and they can continue to provide valuable educational options for Hawaii's students.

HB-901

Submitted on: 2/5/2025 12:51:25 PM

Testimony for EDN on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Steve Hirakami	Hawaii Academy of Arts & Science PCS	Support	Written Testimony Only

Comments:

Testimony in Support of HB901

Chairperson and Members of the Committee,

I strongly support HB901 because the current statute severely limits charter schools' ability to seek due process and conflict resolution. Under the existing framework, charter schools may only appeal decisions to the Board of Education in cases of non-renewal or revocation of their charter contract. However, there are numerous other situations where a fair and impartial appeals process is necessary to address disputes or concerns regarding decisions made by the Charter School Commission.

As the governing body overseeing both the Commission and charter schools, the Board of Education is the appropriate entity to handle appeals. Ensuring that charter schools have a clear and accessible pathway for conflict resolution beyond just the most extreme cases is essential for fairness, transparency, and the continued success of public charter schools.

I urge the Legislature to pass HB901 to establish a more just and equitable process for addressing disputes within the charter school system.

Thank you for your time and consideration

LATE

HB-901

Submitted on: 2/5/2025 11:25:34 PM
Testimony for EDN on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joana Heaton	Individual	Support	Written Testimony Only

Comments:

2/05/2025

Dear Chair and members of the Committee,

I am writing to express my strong support for HB 901. I believe that this legislation of authorizing Public Charter Schools to appeal directly to DOE is a critical step in ensuring timely processing of any appeals regarding operations, funding, and governance; making sure that Charter Schools can continue to operate without any disruptions. I commend your efforts to advocate for positive change in our state.

As a parent, I understand the importance of ensuring that our children receive the best possible education. HB901's provisions will not only help improve educational outcomes, but it will also ensure that all students have access to the resources they need to succeed.

I urge you to continue your support for this important piece of legislation and to work with your colleagues to ensure that it is passed into law. The positive impact of HB901 will resonate throughout Hawaii.

Thank you for your time and dedication to our community. I look forward to seeing HB901 move forward and am hopeful that it will receive the support it deserves.

Sincerely,
Joana Heaton