



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

Date: 03/18/2022

Time: 03:15 PM

Location: CR 229 & Videoconference

Committee: Senate Education

Department: Education

Person Testifying: Keith T. Hayashi, Interim Superintendent of Education

Title of Bill: HB 1865, HD1 RELATING TO CHARTER SCHOOLS.

Purpose of Bill: Requires the state public charter school commission to disburse funds directly to public charter schools. Repeals the exemption for charter schools from requirements on the administration and use of the federal funds allocated to the State for public education purposes. Effective 7/1/2050. (HD1)

Department's Position:

Thank you for the opportunity to provide testimony with comments on HB 1865, HD1.

The Hawaii State Department of Education (Department) has concerns regarding the proposed amendments to Section 302D-28(d), Hawaii Revised Statutes (HRS), contained in Section 3 of this measure, specifically the change that reads, "Federal funds received by the department for charter schools shall be transferred [~~to authorizers for distribution~~] directly to the charter schools [~~they authorize~~]" in accordance with the federal requirements."

This proposed change would present logistical challenges by requiring the Department's federal fund programs to work with each charter school directly rather than coordinating through the Hawaii State Public Charter School Commission (Charter Commission) staff. This change would exponentially increase operational inefficiencies and the potential for mis-communication between Department programs and charter schools, particularly as each charter school may have unique practices and financial systems.

In addition, this change does not appear to recognize the authority and responsibilities conferred to the Charter Commission as an authorizer in Sections 302D-5 and 302D-17, HRS.

Thank you for the opportunity to provide testimony on HB 1865, HD1.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 1865, H.D. 1, RELATING TO CHARTER SCHOOLS.

BEFORE THE:

SENATE COMMITTEE ON EDUCATION

DATE: Friday, March 18, 2022

TIME: 3:15 p.m.

LOCATION: State Capitol, Room 229 and Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Anne T. Horiuchi, Deputy Attorney General

Chair Kidani and Members of the Committee:

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

This bill requires the State Public Charter School Commission to disburse funds directly to public charter schools, and also repeals the exemption for charter schools from requirements on the administration and use of the federal funds allocated to the State for public education purposes. The bill also clarifies that the disbursement of these funds shall not be conditioned on the agreement of a public charter school to amend an existing charter contract.

The bill seeks to amend section 302D-28(e), Hawaii Revised Statutes (HRS) in pertinent part, to state:

(e) Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Page 6, lines 13-18.

Under federal law, there is no "Free Appropriate Public Education Program." Rather, the Individuals with Disabilities Education Act (IDEA), as amended in 2004, codified at 20 U.S.C. § 300.1, *et seq.*, requires states to ensure that a free appropriate public education (FAPE) is made available to eligible children with disabilities.

Moreover, the Department of Education is ultimately responsible for ensuring that all eligible students attending a public school, including a public charter school, receive FAPE, so per-pupil funding disbursements to charter schools should not impact special education and related services received by IDEA-eligible students.

The Department respectfully suggests that the Committee remove the reference to "student eligibility for the Free Appropriate Public Education Program under federal law" and revise the proposed amendment to section 302D-28(e), HRS, on page 6, lines 13-18, as follows:

Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract~~[, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law].~~

Thank you for the opportunity to provide our comments.

HB-1865-HD-1

Submitted on: 3/17/2022 12:53:06 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Rand Kanoa Castro	Testifying for Kanu o ka Aina NCPCS	Support	Remotely Via Zoom

Comments:

On behalf of Kanu o ka 'Āina NCPCS I support this bill.

HB-1865-HD-1

Submitted on: 3/17/2022 12:58:47 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Cheryl Zarro	Individual	Support	Written Testimony Only

Comments:

Cheryl A Zarro
Testimony

In Support of HB1985 HD1 with changes

Senate Education Committee Hearing for

HB 1865 HD1

March 18, 2022

3:15pm Conference Room 229

Aloha Chair Kidani, Vice-chair Mercado- Kim and members of the Senate Education Committee,

for Kihei Charter School, supports HB1865 with changes.

To further clarify the appeal process and funding distribution South Maui Learning Ohana is requesting the following changes to the current language:

"§302D-25 Applicability of state laws.

(a)Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

(f) Charter schools, the commission, and authorizers shall be exempt from section 302A-1401.

The Board of Education is the arbitrator of all appeals on any Commission action and Commission inaction resulting in prohibition to serve the community. In accordance with due process after a Board appeal or Board denial to hear an appeal, Charter Schools may seek judicial review for clarity on an issue.

SECTION 3. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsections

(d) through (f) to read as follows:

(e) [Authorizers] The commission shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a)[.] and the DOE shall disburse the funding directly to charter schools. Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Sincerely

Cheryl Zarro

Director of Financial Services

650 Lipoa Parkway Kihei Hawaii 96753 Mailing address: PO Box 1098 Kihei Hawaii 96753

HB-1865-HD-1

Submitted on: 3/17/2022 12:56:04 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoë Ahuna	Testifying for Kanuikapono Public Charter School	Support	Written Testimony Only

Comments:

Aloha Chair Kidani, Vice Chair Kim and Committee Members,

The Network supports HB1865 with comments. Thank you for the amendments made to HD1. To further clarify the appeal process and funding distribution the Hawaii Public Charter School Network is requesting the following changes to the current language:

"§302D-25 Applicability of state laws. (a)Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

(f) Charter schools, the commission, and authorizers shall be exempt from section 302A-1401. The Board of Education is the arbitrator of all appeals on any Commission action and Commission inaction resulting in prohibition to serve the community. In accordance with due process after a Board appeal or Board denial to hear an appeal, Charter Schools may seek judicial review for clarity on an issue.

SECTION 3. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsections (d) through (f) to read as follows:

(e) [Authorizers] The commission shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a)[.] and the DOE shall disburse the funding directly to charter schools. Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Mahalo for your time and service to our communities,
Kanoë Ahuna. Executive Director/Principal

SMLO
South Maui Learning Ohana, Inc.
a 501 c3 educational non profit
Fed ID # 99-0341232

Testimony
In Support of HB1985 HD1 with changes

Senate Education Committee Hearing for
HB 1865 HD1
March 18, 2022
3:15pm Conference Room 229

Aloha Chair Kidani, Vice-chair Mercado- Kim and members of the Senate Education Committee, South Maui Learning Ohana, the founding organization for Kihei Charter School, supports HB1865 with changes.

To further clarify the appeal process and funding distribution South Maui Learning Ohana is requesting the following changes to the current language:

"§302D-25 Applicability of state laws.

(a) Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

~~(f) Charter schools, the commission, and authorizers shall be exempt from section 302A-1401.~~

The Board of Education is the arbitrator of all appeals on any Commission action and Commission inaction resulting in prohibition to serve the community. In accordance with due process after a Board appeal or Board denial to hear an appeal, Charter Schools may seek judicial review for clarity on an issue.

SECTION 3. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsections (d) through (f) to read as follows:

(e) [Authorizers] The commission shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a)[.] and the DOE shall disburse the funding directly to charter schools. Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Sincerely

Gene Zarro
CEO, SMLO

650 Lipoa Parkway Kihei Hawaii 96753 Mailing address: PO Box 1098 Kihei Hawaii 96753 genezarro@gmail.com

HB-1865-HD-1

Submitted on: 3/17/2022 1:01:12 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Ellen Federoff	Testifying for Kihei Charter School	Support	Written Testimony Only

Comments:

Aloha Chair Kidani, Vice-chair Mercado- Kim and members of the Senate Education Committee,

As the Director of Kihei Charter High School, I support HB1865 with changes.

To further clarify the appeal process and funding distribution I am requesting the following changes to the current language:

"§302D-25 Applicability of state laws.

(a)Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

(f) Charter schools, the commission, and authorizers shall be exempt from section 302A-1401.

The Board of Education is the arbitrator of all appeals on any Commission action and Commission inaction resulting in prohibition to serve the community. In accordance with due process after a Board appeal or Board denial to hear an appeal, Charter Schools may seek judicial review for clarity on an issue.

SECTION 3. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsections

(d) through (f) to read as follows:

(e) [Authorizers] The commission shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a)[.] and the DOE shall disburse the funding directly to charter schools. Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Sincerely.

Ellen Federoff

High School Director, Kihei Charter School

HB-1865-HD-1

Submitted on: 3/16/2022 9:47:42 AM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrea Quinn	Individual	Support	Written Testimony Only

Comments:

Dear Honorable Committee Members:

Please support HB1865. There's no reason charter schools should be unaccountable, either for funds received or in terms of student grades, if they are receiving taxpayer funding.

Studies across the country show charter schools to typically underperform public schools.

Thank you for your time.

Andrea Quinn

Kihei, Maui

HB-1865-HD-1

Submitted on: 3/17/2022 12:11:47 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Jhernie Evangelista	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou,

This bill will do much to support our keiki in the pursuit of educational justice. I **FULLY SUPPORT** this bill and hope to see it move forward.

Mahalo nui,

Jhernie

HB-1865-HD-1

Submitted on: 3/17/2022 12:32:26 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael R Guritz	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou,

This bill will do much to support our keiki in the pursuit of educational justice. I SUPPORT this bill and hope to see it move forward.

Mahalo nui,

Mike

HB-1865-HD-1

Submitted on: 3/17/2022 12:46:57 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Christyn Stroud	Individual	Support	Written Testimony Only

Comments:

I am in support of this bill. Mahalo

HB-1865-HD-1

Submitted on: 3/17/2022 12:49:52 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Amanda	Individual	Support	Written Testimony Only

Comments:

TESTIMONY HB1865 HD1

SUPPORT with Comments

Aloha Chair Kidani, Vice Chair Kim and Committee Members, The Network supports HB1865 with comments. Thank you for the amendments made to HD1. To further clarify the appeal process and funding distribution the Hawaii Public Charter School Network is requesting the following changes to the current language: "**§302D-25 Applicability of state laws.** (a)Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(e)Notwithstanding any law to the contrary, as public

schools and entities of the State, a charter school, includingits governing board, the commission, and any authorizer may notbring suit against any other entity or agency of the State.

(f)Charter schools, the commission, and authorizers shall

be exempt from section 302A-1401. The Board of Education is thearbitrator of all appeals on any Commission action and

Commission inaction resulting in prohibition to serve the

community. In accordance with due process after a Board appeal or Board denial to hear an appeal, Charter Schools may seek judicial review for clarity on an issue.

SECTION 3. Section 302D-28, Hawaii Revised Statutes, is

amended by amending subsections (d) through (f) to read as follows:

(e)[Authorizers] The commission shall calculate a general

fund per-pupil amount based upon the amount of general funds

appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a)[.] and the DOE shall disburse the funding directly to charter schools. Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Mahalo for your time and service to our communities,

Amanda Fung

Po‘o Kula

Kamalani Academy

HB-1865-HD-1

Submitted on: 3/17/2022 12:40:54 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Histo	Individual	Support	Written Testimony Only

Comments:

Aloha,

As the parent of a student attending a local charter school I am in full support of HB1865 that would allow the pursuit of educational justice. The cultural values being taught go hand in hand with the charter schools ability to make their own decisions about the use of funds and management of policies. Mahalo for your kōkua.

HB-1865-HD-1

Submitted on: 3/17/2022 12:42:16 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Chris Helvey	Individual	Support	Written Testimony Only

Comments:

I support this bill.

HB-1865-HD-1

Submitted on: 3/17/2022 12:48:18 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicole C. Ryan	Individual	Support	Written Testimony Only

Comments:

Fully support as a parent of 3 charter school keiki.

HB-1865-HD-1

Submitted on: 3/17/2022 12:49:54 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Lee Nelson	Individual	Support	Written Testimony Only

Comments:

I support this bill.

HB-1865-HD-1

Submitted on: 3/17/2022 12:59:36 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Albert Jeremiah	Individual	Support	Written Testimony Only

Comments:

Support

HB-1865-HD-1

Submitted on: 3/17/2022 12:48:20 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark D Disher	Individual	Support	Written Testimony Only

Comments:

I am in support of HB 1865.

HB-1865-HD-1

Submitted on: 3/17/2022 12:51:24 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Denise Espania	Individual	Support	Written Testimony Only

Comments:

Please support charter school autonomy and the schools' ability to support individual school and community needs.

HB-1865-HD-1

Submitted on: 3/17/2022 1:22:33 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Wanda Villareal	Testifying for Kapolei Charter School	Support	Written Testimony Only

Comments:

Kapolei Charter School is in support of HB1865 HD1, which seeks to clarify the disbursement of funding for charter schools so that per-pupil funding disbursement is not withheld under various conditions. Our school, like many others has a critical need for funding for student operations, and any delay in release of funds would impact our school and our students negatively. For these reasons we support HB1865 HD1.

HB-1865-HD-1

Submitted on: 3/17/2022 12:53:10 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
shane cobb-adams	Testifying for Kanuikapono public charter school	Support	Written Testimony Only

Comments:

Aloha Chair Kidani, Vice Chair Kim and Committee Members,
The Network supports HB1865 with comments. Thank you for the amendments made to HD1.
To further

clarify the appeal process and funding distribution the Hawaii Public Charter School Network is requesting

the following changes to the current language:

"§302D-25 Applicability of state laws. (a)Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

(f) Charter schools, the commission, and authorizers shall be exempt from section 302A-1401. The Board of Education is the arbitrator of all appeals on any Commission action and Commission inaction resulting in prohibition to serve the community. In accordance with due process after a Board appeal or Board denial to hear an appeal, Charter Schools may seek judicial review for clarity on an issue.

SECTION 3. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsections (d) through (f) to read as follows:

(e) [Authorizers] The commission shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a)[.] and the DOE shall disburse the funding directly to charter schools. Per-pupil funding disbursement shall not be withheld or conditioned on the agreement of a charter school to amend an existing charter contract, including without limitation amendments that may compromise student eligibility for the Free Appropriate Public Education Program under federal law.

Mahalo for your time and service to our community

HB-1865-HD-1

Submitted on: 3/17/2022 12:46:32 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Kristen Kua	Testifying for Connections Public Charter School	Support	Written Testimony Only

Comments:

Please pass this bill.

HB-1865-HD-1

Submitted on: 3/17/2022 12:54:09 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Roberta Souza	Testifying for Ke Ana La'ahana PCS	Support	Written Testimony Only

Comments:

Ke Ana Laahana PCS support HB 1865

HB-1865-HD-1

Submitted on: 3/17/2022 12:39:56 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

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

Comments:

Please pass this measure

HB-1865-HD-1

Submitted on: 3/17/2022 12:57:29 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Ku'uipo Murray	Testifying for Kamalani Academy	Support	Written Testimony Only

Comments:

Please pass this bill in support of all charter schools.

HB-1865-HD-1

Submitted on: 3/17/2022 12:47:53 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Shinji Salmoiraghi	Testifying for Connections PCS	Support	Written Testimony Only

Comments:

I support the passing of HB1865.

HB-1865-HD-1

Submitted on: 3/17/2022 12:05:00 PM

Testimony for EDU on 3/18/2022 3:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Taffi Wise	Testifying for Hawaii Public Charter School Network	Support	Written Testimony Only

Comments:

Mahalo nui for your support!