

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that, pursuant to Act  
2   115, Session Laws of Hawaii 2007, the legislature sought to  
3   improve the public charter school system by clarifying the  
4   functions, duties, and roles of the charter school review panel  
5   and the board of education in the administration and operations  
6   of charter schools in the State. The legislature further finds  
7   that although the changes made were important and effective in  
8   assisting in charter schools administration, additional reform  
9   is necessary to allow charter schools in the State to continue  
10   to strive for excellence through effective and efficient  
11   operations.

12       The purpose of this Act is to make clarifying amendments to  
13   charter school administration, including among other things:

- 14       (1) Prohibiting the board of education member on the  
15       charter school review panel to sit on appeals from the  
16       panel's decisions;



(2) Authorizing the board of education to remove a panel member for cause;

(3) Requiring the charter school administrative office to be represented by an assigned deputy attorney general, separate from counsel for the board of education;

(4) Requiring submission to and approval of the charter school budget by the panel;

(5) Authorizing the charter school administrative office to submit a capital improvement projects budget for charter school facilities to the department of budget and finance, subject to approval by the panel;

(6) Excluding fringe benefits, special education, and federal funding from the per-pupil appropriation to charter schools;

(7) Specifying the duties of the executive director of the charter school administrative office with regard to the preparation of the budget; and

(8) Clarifying that the panel is subject to the requirements of the sunshine law.

SECTION 2. Section 302B-1, Hawaii Revised Statutes, is amended by amending the definitions of "local school board" and "organizational viability" to read as follows:



1        "Local school board" means the autonomous governing body  
2 of a charter school that ~~[receives]~~:

3        (1) Receives the charter and is responsible for the  
4 financial and academic viability of the charter school  
5 and implementation of the charter~~[, possesses]~~;

6        (2) Possesses the independent authority to determine the  
7 organization and management of the school, the  
8 curriculum, virtual education, and compliance with  
9 board policies made in the board's capacity as the  
10 state education agency, department directives made in  
11 the department's capacity as the state education  
12 agency, and applicable federal and state laws~~[, [and]~~  
13 ~~has]~~; and

14       (3) Has the power to negotiate supplemental collective  
15 bargaining agreements with exclusive representatives  
16 of their employees.

17        "Organizational viability" means that a charter school:

18        (1) Has been duly constituted in accordance with its  
19 charter;

20        (2) Has a local school board established in accordance  
21 with law and the charter school's charter;



- (3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;
- (4) Maintains accurate and comprehensive records regarding students and employees as determined by the office;
- (5) Meets appropriate standards of student achievement;
- (6) Cooperates with board, panel, and office requirements in conducting its functions;
- (7) Complies with applicable federal, state, and county laws and requirements;
- (8) In accordance with office guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;
- (9) Operates within the scope of its charter and fulfills obligations and commitments of its charter;
- (10) Complies with all health and safety laws and requirements; [and]
- (11) Complies with all panel directives, policies, and procedures [-];



- 1        (12) Complies with board policies made in the board's  
2                    capacity as the state education agency; and  
3        (13) Complies with department directives in the  
4                    department's capacity as the state education agency."

5        SECTION 3. Section 302B-3, Hawaii Revised Statutes, is  
6 amended as follows:

7        1. By amending subsection (a) to read:

8        "(a) There is established the charter school review panel,  
9 which shall be placed within the department for administrative  
10 purposes only. The panel shall be accountable to the charter  
11 schools and the board. Notwithstanding section 302B-9[7] or any  
12 other law to the contrary, the panel shall be subject to chapter  
13 92."

14       2. By amending subsection (e) to read:

15       "(e) Notwithstanding the terms of members, the board may  
16 add panel members at any time and replace panel members at any  
17 time when their positions become vacant through resignation,  
18 through non-participation, [e~~x~~] upon request of a majority of  
19 panel members[~~-~~], or upon termination by the board for cause."

20       3. By amending subsections (i) and (j) to read:

21       "(i) The powers and duties of the panel shall be to:



- (1) Appoint and evaluate the executive director and approve staff and salary levels for the charter school administrative office;
- (2) Review, approve, or deny charter applications for new charter schools in accordance with section 302B-5 for the issuance of new charters; provided that applicants that are denied a charter may appeal to the board for a final decision pursuant to section 302B-3.5;
- (3) Review, approve, or deny [~~significant~~] amendments to detailed implementation plans to maximize the school's financial and academic success, long-term organizational viability, and accountability. Charter schools that are denied [~~a significant~~] an amendment to their detailed implementation plan may appeal to the board for a final decision pursuant to section 302B-3.5;
- (4) Adopt reporting requirements for charter schools;
- (5) Review annual self-evaluation reports from charter schools and take appropriate action;
- (6) Evaluate any aspect of a charter school that the panel may have concerns with and take appropriate action, which may include probation or revocation;



(7) Periodically adopt improvements in the panel's monitoring and oversight of charter schools; ~~[and]~~

(8) Periodically adopt improvements in the office's support of charter schools and management of the charter school system~~[-]~~;

(9) Review, modify, and approve the charter schools budget, based upon criteria and an approval process established by the panel;

(10) Review, modify, and approve the capital improvement projects budget for charter school facilities, based upon criteria and an approval process established by the panel; provided that, upon approval, the office shall submit the capital improvement projects budget for charter school facilities directly to the department of budget and finance; and

(11) Review, modify, or approve recommendations of the office to allocate non-per-pupil facilities funds to charter schools with facilities needs.

(j) In the case that the panel decides not to issue a new charter, or to approve ~~[significant]~~ amendments to detailed implementation plans, the board may adopt rules for an appeals process pursuant to section 302B-3.5."



SECTION 4. Section 302B-3.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§302B-3.5[+] Appeals; charter school applications, revocations, or detailed implementation plan amendments. The board shall have the power to decide appeals from decisions of the panel to deny the approval of a charter school application, revoke a charter school's charter, or deny the approval of an amendment to a charter school's detailed implementation plan[-]; provided that any member of the board who served as a member of the charter school review panel during the time at which the decision being appealed was made shall be recused from reviewing the matter on appeal. 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 school application has been denied, whose charter has been revoked, or whose amendment to a detailed implementation plan has been denied may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. The board may adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process."





1       SECTION 5. Section 302B-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "§302B-8 Charter school administrative office. (a) There  
4 is established a charter school administrative office, which  
5 shall be attached to the department for administrative purposes  
6 only. The office shall be administered by an executive  
7 director, who shall be appointed without regard to chapters 76  
8 and 89 by the panel based upon the recommendations of an  
9 organization of charter schools operating within the State or  
10 from a list of nominees submitted by the charter schools. The  
11 panel shall hire the executive director, who may be contracted  
12 for a term of up to four years; shall offer the executive  
13 director a written contract; and may terminate the executive  
14 director's contract only for cause. The executive director,  
15 with the approval of the panel, may hire necessary staff without  
16 regard to chapters 76 and 89 to assist in the administration of  
17 the office.

18       (b) The executive director, under the direction of the  
19 panel and in consultation with the charter schools, shall be  
20 responsible for the internal organization, operation, and  
21 management of the charter school system, including:



(1) Preparing and executing the budget for the charter schools, including submission of the budget request to the panel, the board, the governor, and the legislature; provided that, in preparing the budget request with regard to facilities funding, the executive director shall ensure that the request provides:

(A) Funding for actual and projected enrollment figures in the current school year for each charter school;

(B) Funding equal to the department's debt service appropriation divided by the department's actual enrollment that school year; and

(C) That no less than eighty per cent of the amount requested shall be allocated by the office to start-up charter schools on a per-pupil basis; provided that the funds remaining shall be allocated to charter schools with facilities needs as recommended by the office and approved by the panel;



- (2) Allocating annual appropriations to the charter schools and distribution of federal funds to charter schools;
- (3) Complying with applicable state laws related to the administration of the charter schools;
- (4) Preparing contracts between the charter schools and the department for centralized services to be provided by the department;
- (5) Preparing contracts between the charter schools and other state agencies for financial or personnel services to be provided by the agencies to the charter schools;
- (6) Providing independent analysis and recommendations on charter school issues;
- (7) Representing charter schools and the charter school system in communications with the board, the governor, and the legislature;
- (8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;
- (9) Providing guidance and assistance to charter applicants and charter schools to enhance the



completeness and accuracy of information for panel  
review;

(10) Assisting charter applicants and charter schools in  
coordinating their interactions with the panel as  
needed;

(11) Assisting the panel to coordinate with charter schools  
in panel investigations and evaluations of charter  
schools;

(12) Serving as the conduit to disseminate communications  
from the panel, the board, and the department to all  
charter schools;

(13) Determining charter school system needs and  
communicating those needs to the panel, the board, and  
the department;

(14) Establishing a dispute resolution and mediation  
process; [and]

(15) Upon request by one or more charter schools, assisting  
in the negotiation of a collective bargaining  
agreement with the exclusive representative of its  
employees [-]; and

(16) Preparing a separate capital improvement projects  
budget for charter school facilities, which shall be



1       submitted to the charter school review panel for  
2       approval and, upon approval, submitting the capital  
3       improvement projects budget for charter school  
4       facilities directly to the department of budget and  
5       finance.

6       (c) The executive director shall be evaluated annually by  
7 the panel. The annual evaluation shall be conducted  
8 sufficiently in advance of the end of a term to provide the  
9 executive director the opportunity to respond to concerns and  
10 improve performance.

11       (d) The salary of the executive director and staff shall  
12 be set by the panel based upon the recommendations of charter  
13 schools within the State; provided that the salaries and  
14 operational expenses of the office shall be paid from the annual  
15 charter school appropriation [~~and shall not exceed two per cent~~  
16 ~~of the total allocation in any fiscal year.~~] at an amount to be  
17 determined annually by the panel."

18       (e) The office shall be represented by an assigned deputy  
19 attorney general who does not represent, or function as a  
20 subordinate to, a deputy attorney general who represents the  
21 department or the board."



1       SECTION 6. Section 302B-12, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§302B-12 Funding and finance.** (a) Beginning with fiscal  
4 year ~~[2006-2007,]~~ 2009-2010, and each fiscal year thereafter,  
5 ~~[the office shall submit a request for general fund~~  
6 ~~appropriations for each charter school based upon:]~~ the per-  
7 pupil funding amount for charter school students shall not be  
8 less than the total per-pupil amount in that same year to the  
9 department; provided that:

10       (1) The amount shall provide funding for actual and  
11       projected enrollment figures in the current school  
12       year for each charter school; and

13       (2) [A] The per-pupil amount ~~[for each regular education~~  
14       ~~and special education student, which shall be~~  
15       ~~equivalent to the total per-pupil cost based upon~~  
16       ~~average enrollment in]~~ shall include, but not be  
17       limited to, all regular education cost categories,  
18       including comprehensive school support services, but  
19       excluding special education services ~~[7]~~; provided that  
20       special education services are provided and funded by  
21       the department, and ~~[for]~~ shall include all means of  
22       financing except ~~[federal funds, as reported in the~~



1       ~~most recently approved executive budget~~  
2       ~~recommendations for the department; provided that in~~  
3       ~~preparing the budget the executive director shall~~  
4       ~~include an analysis of the proposed budget in~~  
5       ~~relationship to the most recently published department~~  
6       ~~consolidated annual financial report; provided further~~  
7       ~~that the legislature may make an adjustment to the~~  
8       ~~per pupil allocation for the purposes of this section;~~  
9       ~~and] fringe benefit costs, debt service, and federal~~  
10       ~~funds.~~

11       ~~[(3) Those fringe]~~ (b) Fringe benefit costs [requested]  
12       ~~for charter school employees, regardless of the payroll system~~  
13       ~~utilized by a charter school, shall be included in the~~  
14       ~~department of budget and finance's annual budget request.~~  
15       Fringe benefit costs paid directly by a charter school to a  
16       payroll system provider shall be reimbursed by the department of  
17       budget and finance to the charter school on a quarterly basis.  
18       No fringe benefit costs shall be charged directly to or deducted  
19       from the charter school per-pupil allocations ~~[unless they are~~  
20       ~~already included in the funds distributed to the charter~~  
21       ~~school].~~



1       The legislature shall ~~[make an appropriation based upon the~~  
2 ~~budget request,]~~ provide funding for charter schools based upon  
3 the requirements of this section; provided that the legislature  
4 ~~[may]~~ shall make additional appropriations for fringe, workers'  
5 compensation, and other employee benefits~~[,]~~ and facility  
6 costs~~[, and]~~. The legislature may make additional  
7 appropriations for other requested amounts[.] that benefit  
8 charter schools.

9       The governor, pursuant to chapter 37, may impose  
10 restrictions or reductions on charter school appropriations  
11 similar to those imposed on other public schools.

12       ~~[(b)]~~ (c) Charter schools shall be eligible for all  
13 federal financial support to the same extent as all other public  
14 schools. The department shall provide the office with all  
15 state-level federal grant proposals submitted by the department  
16 that include charter schools as potential recipients and timely  
17 reports on state-level federal grants received for which charter  
18 schools may apply or are entitled to receive. Federal funds  
19 received by the department for charter schools shall be  
20 transferred to the office for distribution to charter schools in  
21 accordance with the federal requirements. ~~[If administrative~~  
22 ~~services related to federal grants and subsidies are provided to~~





1 ~~the charter school by the department, the charter school shall~~  
2 ~~reimburse the department for the actual costs of the~~  
3 ~~administrative services in an amount that shall not exceed six~~  
4 ~~and one-half]~~ The department shall retain five per cent of the  
5 charter school's federal grants and subsidies[-] as an  
6 administrative fee.

7 Any charter school shall be eligible to receive any  
8 supplemental federal grant or award for which any other public  
9 school may submit a proposal, or any supplemental federal grants  
10 limited to charter schools; provided that if department  
11 administrative services, including funds management, budgetary,  
12 fiscal accounting, or other related services, are provided with  
13 respect to these supplemental grants, the charter school shall  
14 reimburse the department for ~~[the actual costs of the~~  
15 ~~administrative services in an amount that shall not exceed six~~  
16 ~~and one-half per cent of the supplemental grant for which the~~  
17 ~~services are used.]~~ an administrative fee in the amount of five  
18 per cent of the charter school's federal grants and subsidies.

19 All additional funds generated by the local school boards,  
20 that are not from a supplemental grant, shall be held separate  
21 from allotted funds and may be expended at the discretion of the  
22 local school boards.



1        [~~(e)~~] (d) To enable charter schools to access state  
2 funding prior to the start of each school year, foster their  
3 fiscal planning, and enhance their accountability, the office  
4 shall:

5        (1) Provide fifty per cent of a charter school's per-pupil  
6 allocation based on the charter school's projected  
7 student enrollment no later than July 20 of each  
8 fiscal year; provided that the charter school shall  
9 have submitted to the office a projected student  
10 enrollment no later than May 15 of each year;

11        (2) Provide an additional forty per cent of a charter  
12 school's per-pupil allocation no later than  
13 November 15 of each year; provided that the charter  
14 school shall have submitted to the office:

15        (A) Student enrollment as verified on October 15 of  
16 each year; provided that the student enrollment  
17 shall be verified on the last business day  
18 immediately prior to October 15 should that date  
19 fall on a weekend; and

20        (B) An accounting of the percentage of student  
21 enrollment that transferred from public schools  
22 established and maintained by the department;



1 provided that these accountings shall also be  
2 submitted by the office to the legislature no  
3 later than twenty days prior to the start of each  
4 regular session; and

- 5 (3) Retain the remaining ten per cent of a charter  
6 school's per-pupil allocation no later than  
7 ~~[January 1]~~ June 30 of each year as a contingency  
8 balance to ensure fiscal accountability~~[7]~~ and  
9 compliance;

10 provided that the panel may make adjustments in allocations  
11 based on noncompliance with ~~[federal and state reporting~~  
12 ~~requirements,]~~ board policies made in the board's capacity as  
13 the state education agency, department directives made in the  
14 department's capacity as the state education agency, the  
15 office's administrative procedures, and board-approved  
16 accountability requirements.

17 ~~[(d)]~~ (e) The department shall provide appropriate  
18 transitional resources to a conversion charter school for its  
19 first year of operation as a charter school based upon the  
20 department's allocation to the school for the year prior to the  
21 conversion.



1       [~~(e)~~] (f) No start-up charter school or conversion charter  
2 school may assess tuition."

3       SECTION 7. Section 302B-14, Hawaii Revised Statutes, is  
4 amended as follows:

5       1. By amending subsection (b) to read:

6       "(b) The panel shall conduct a multi-year [evaluations]  
7 evaluation of each charter [schools that have been chartered for  
8 four or more years.] school on its fourth anniversary year and  
9 every five years thereafter. The panel may from time to time  
10 establish a schedule to stagger the multi-year evaluations."

11       2. By amending subsection (d) to read:

12       "(d) The panel may place a charter school on probationary  
13 status; provided that:

14       (1) The panel evaluates the charter school or reviews an  
15 evaluation of the charter school;

16       (2) The panel and the office are involved in substantive  
17 discussions with the charter school regarding the  
18 areas of deficiencies;

19       (3) The notice of probation is delivered to the charter  
20 school and specifies the deficiencies requiring  
21 correction, the probation period, and monitoring and  
22 reporting requirements;



(4) For deficiencies related to student performance, a charter school shall be allowed two years to improve student performance;

(5) For deficiencies related to financial plans, a charter school shall be allowed one year to develop a sound financial plan; ~~and~~

(6) For deficiencies related to organizational viability, a charter school may be allowed one year to improve administrative compliance~~[-]~~; and

(7) For deficiencies related to compliance with board policies made in the board's capacity as the state education agency, department directives made in the department's capacity as the state education agency, state and federal laws, and health and safety issues, the panel shall determine the probation period; for these deficiencies, the board shall have the authority to direct the panel to take appropriate action.

The charter school shall remain on probationary status until the panel votes either to remove the charter school from probationary status or revoke its charter."

3. By amending subsection (g) to read:



1       "(g) If there is an immediate concern for student or  
2 employee health or safety at a charter school, the panel, in  
3 consultation with the office, may adopt an interim restructuring  
4 plan that may include the appointment of an interim local school  
5 board, an interim local school board chairperson, or a principal  
6 to temporarily assume operations of the school; provided that if  
7 possible without further jeopardizing the health or safety of  
8 students and employees, the charter school's stakeholders and  
9 community are first given the opportunity to elect a new local  
10 school board which shall appoint a new interim principal. The  
11 board shall have the authority to direct the panel to take  
12 appropriate action to immediately address serious health and  
13 safety issues that may exist at a charter school in order to  
14 ensure the health and safety of students and employees and  
15 mitigate significant liability to the State."

16       SECTION 8. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18       SECTION 9. This Act shall take effect upon its approval.

19  
INTRODUCED BY: Norman Sakuma



**Report Title:**

Charter Schools; Charter School Review Panel

**Description:**

Clarifies the functions, duties, and roles of the charter school review panel in the administration and operation of charter schools, and improves fiscal and budgetary accountability.

