

DAVID Y. IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

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

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB 2205 HD1 SD1 Relating to Charter Schools
DATE: Tuesday, March 29, 2016
TIME: 9:00 AM
COMMITTEE(S): Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Yvonne Lau, Interim Executive Director
State Public Charter School Commission

Testimony in support of HB 2205 HD1 SD1

Chair Tokuda, Vice Chair Dela Cruz, and members of the Committee:

The State Public Charter School Commission appreciates the opportunity to submit this testimony in support of House Bill 2205, "Relating to Charter Schools," which makes clarifying and conforming amendments to the statutory provisions governing charter schools.

The proposed measure as amended would:

- Prohibit the Commission from providing technical support to prospective charter applicants that would directly and substantially impact its decision related to the approval or denial of the charter applications, similar to the statutory admonition to the Commission regarding its oversight role as to current charter schools;
- Provide charter school governing boards more flexibility regarding the deadline for the posting of meeting agendas, minutes, and membership, as well as some minimal guidance regarding the quality of such disclosures to better ensure greater public transparency;
- Provide the same protections to a nonprofit organization that serves as a charter school's governing board as are afforded to other governing boards;

- Specify that the procedural requirements for Commission hearings are those already set forth in the charter school statute, including the right to legal representation, to present witnesses, etc., and not other requirements for contested case hearings set forth in Chapter 91, Hawaii Revised Statutes, or in other sources of law not specific to charter schools and charter school authorizers;
- Expressly allow charter schools to assess special fees and charges for co-curricular activities, to parallel the department of education's statute;
- Allow conversion charter schools (*i.e.*, former DOE schools, which remain the default neighborhood public school for their assigned attendance districts) to apply enrollment preferences, if they have any, to those enrollment seats remaining available after all students from within the school's attendance district have been admitted; and

The Commission is appreciative of the clarification provided by the Senate Committee on Education in Standing Committee Report No. 3032 in stating that it was not the intent of the Legislature to include the provisions for a contested case hearing between a school and the Commission, the authorizer.

These proposed provisions represent incremental but important refinements to the statutory framework governing Hawaii's public charter school sector.

Thank you for your consideration of this testimony.

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

PART I

SECTION 1. Section 302D-5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) An authorizer shall not provide technical support to a prospective charter school applicant, an applicant governing board, or a charter school it authorizes in cases where the technical support will directly and substantially impact any authorizer decision related to the [~~authorization,~~] approval or denial of the charter application or the renewal, revocation, or nonrenewal of the charter [school.] contract. This subsection shall not apply to technical support that an authorizer is required to provide to a charter school pursuant to federal law."

SECTION 2. Section 302D-12, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Charter schools and their governing boards shall be exempt from the requirements of chapters 91 and 92. The governing boards shall:

- (1) Hold meetings open to the public;

- (2) ~~[Make available]~~ Post the notices and agendas of public meetings:
- (A) At a publicly accessible area in the charter school's office so ~~[as to be]~~ they are available for review during regular business hours; and
- (B) On the charter school's internet website, not less than six calendar days prior to the public meeting, unless a waiver is granted by the authorizer or authorizer's designee in the case of an emergency; ~~[and]~~
- (3) Keep written minutes of all public meetings that shall include:
- (A) The date, time, and place of the meeting;
- (B) The members of the board recorded as either present or absent;
- (C) The substance of all matters proposed, discussed, and decided;
- (D) The views of the participants;
- (E) A record, by individual member, of any votes taken; and
- (F) Any other information that any member of the board requests be included or reflected in the minutes;

(4) Not be required to produce a full transcript or audio or video recording of any public meeting, unless otherwise required by law;

[~~(3)~~] (5) [Make available] Post the written minutes from public meetings:

(A) At a publicly accessible area in the charter school's office so the minutes are available for review during regular business hours; and

(B) On the charter school's internet website, within [~~thirty days and maintain~~] sixty calendar days after the public meeting or five calendar days after the next public meeting, whichever is sooner; and

(6) Maintain a list of the current names and contact information of the governing board's members and officers:

(A) In the charter school's office so [~~as to be~~] it is available for review during regular business hours; and

(B) On the charter school's internet website."

SECTION 3. Section 302D-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any community, department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of

intent to an authorizer to form a charter school and establish an applicant governing board. An applicant governing board may develop a charter application pursuant to this section; provided that:

- (1) An applicant governing board established by a community may develop a charter application for a start-up charter school;
- (2) An applicant governing board established by a department school or a school community council may develop a charter application for a conversion charter school;
- (3) An applicant governing board established by a group of teachers or a group of administrators may develop a charter application for a start-up or conversion charter school; and
- (4) A nonprofit organization may:
 - (A) Establish an applicant governing board that is separate from the nonprofit organization and develop a charter application for a start-up or conversion charter school; or
 - (B) Establish an applicant governing board that shall be the board of directors of the nonprofit organization and may develop a charter application for a conversion charter school;

provided that any nonprofit organization that seeks to manage and operate a conversion charter school shall:

- (i) Submit to the authorizer at the time of the charter application bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
- (ii) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience; ~~and~~
- (iii) Not interfere in the operations of the department school to be converted until otherwise authorized by the authorizer in consultation with the department~~[-]~~; and
- (iv) Have the same protections that are afforded to all other governing boards in its role as the conversion charter school governing board."

SECTION 4. Section 302D-18, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) An authorizer shall develop revocation and nonrenewal processes that:

- (1) Provide charter contract holders with a timely notification of the prospect of revocation or non-renewal and the reasons for such possible closure;
- (2) Allow charter contract holders a reasonable amount of time in which to prepare a response;
- (3) Provide charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose; provided that the proceeding shall be governed by the requirements set forth in this section and not additionally subject to requirements established for an agency hearing under chapter 91;
- (4) Allow charter contract holders access to representation by counsel, subject to section 28-8.3, and to call witnesses on their behalf;
- (5) Permit the recording of proceedings described in paragraph (3); and
- (6) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter contract holders."

SECTION 5. Section 302D-25, Hawaii Revised Statutes, is amended by adding subsection (h) to read as follows:

"(h) The commission in exercising its adjudicatory function, like those boards enumerated in section 92-6(2), HRS, shall be exempt from the requirements of section 92, HRS, as to matters on which the commission already has rendered a decision in a public meeting."

SECTION 5 6. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) No charter school may assess tuition~~[-]~~; provided that a charter school may assess and collect special fees and charges from students for co-curricular activities. Any special fees and charges collected pursuant to this subsection shall be deposited into insured checking or savings accounts and expended by each individual charter school."

SECTION 6 7. Section 302D-34, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) A conversion charter school shall:

- (1) Enroll any student who resides within the school's former geographic service area pursuant to section 302A-1143, for the grades that were in place when the department school converted to a charter school; provided that the department may consult with a conversion charter school every three years to

determine whether realignment of the charter school's service area is appropriate given population shifts and the department's overall service area reviews;

~~[(2) Follow the department's procedures regarding enrollment, including but not limited to geographic exceptions and enrollment preferences;]~~ and

~~[(3)]~~ (2) Be subject to subsection (b) for ~~[grades]~~:

(A) Grades that were not in place when the school converted to a public charter school~~[-]~~; and

(B) For any seats still available at the charter school after the enrollment of all students desiring to attend the charter school who reside within the school's former geographic service area pursuant to section 302A-1143."

PART II

SECTION 7. Section 92-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This part shall not apply:

(1) To the judicial branch~~[-]~~; and

(2) To adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the Hawaii Revised Statutes. In the application of this subsection, boards exercising

~~adjudicatory functions include, but are not limited to, the following:~~

~~(A) Hawaii labor relations board, chapters 89 and 377;~~

~~(B) Labor and industrial relations appeals board,
chapter 371;~~

~~(C) Hawaii paroling authority, chapter 353;~~

~~(D) Civil service commission, chapter 26;~~

~~(E) Board of trustees, employees' retirement system of
the State of Hawaii, chapter 88;~~

~~(F) Crime victim compensation commission, chapter 351;~~

~~{and}~~

~~(G) State ethics commission, chapter 84[.]; and~~

~~(H) The state public charter school commission,
established pursuant to section 302D-3, as to a
matter on which the commission already has
rendered a decision in a public meeting."~~

~~PART III~~ II

SECTION ~~9~~ 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~10~~ 9. This Act shall take effect on July 1, 2050.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: duke@sandwichisles.net
Subject: Submitted testimony for HB2205 on Mar 29, 2016 09:00AM
Date: Monday, March 28, 2016 9:00:57 AM

HB2205

Submitted on: 3/28/2016

Testimony for WAM on Mar 29, 2016 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Marion K A Kapuniai	GBKanuOKa'AinaPres	Support	No

Comments: Defer unless amended as follows: SECTION 2 302D-12: Only approved Minutes shall be posted. Minutes shall memorialize formal actions taken, only. SECTION 4 302D-18: (h) An authorizer . . .processes that "shall first include disbursement of all funds due that particular charter school": "timely notification" "reasonable amount of time"is unacceptable - has to be definite. DELETE: last sentence regarding Charter 91. Thank you!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov