

JAN 22 2021

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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. Section 302D-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§302D-13 Start-up and conversion charter schools;  
4 establishment. (a) New start-up and conversion charter schools  
5 may be established pursuant to this section.

6 (b) Any community, department school, school community  
7 council, group of teachers, group of teachers and  
8 administrators, or nonprofit organization may submit a letter of  
9 intent to an authorizer to form a charter school and establish  
10 an applicant governing board. The letter on intent is merely a  
11 notice provided by the applicant to the authorizer that the  
12 applicant intends to complete an application. Anyone that  
13 submits a letter of intent may later submit an application. An  
14 applicant governing board may develop a charter application  
15 pursuant to this section; provided that:



- 1           (1) An applicant governing board established by a  
2                   community may develop a charter application for a  
3                   start-up charter school;
- 4           (2) An applicant governing board established by a  
5                   department school or a school community council may  
6                   develop a charter application for a conversion charter  
7                   school;
- 8           (3) An applicant governing board established by a group of  
9                   teachers or a group of administrators may develop a  
10                  charter application for a start-up or conversion  
11                  charter school; and
- 12          (4) A nonprofit organization may:
- 13                  (A) Establish an applicant governing board that is  
14                          separate from the nonprofit organization and  
15                          develop a charter application for a start-up or  
16                          conversion charter school; or
- 17                  (B) Establish an applicant governing board that shall  
18                          be the board of directors of the nonprofit  
19                          organization and may develop a charter  
20                          application for a conversion charter school;  
21                          provided that any nonprofit organization that



1 seeks to manage and operate a conversion charter  
2 school shall:

3 (i) Submit to the authorizer at the time of the  
4 charter application bylaws or policies that  
5 describe the manner in which business is  
6 conducted and policies that relate to the  
7 management of potential conflict of interest  
8 situations;

9 (ii) Have experience in the management and  
10 operation of public or private schools or,  
11 to the extent necessary, agree to obtain  
12 appropriate services from another entity or  
13 entities possessing such experience;

14 (iii) Not interfere in the operations of the  
15 department school to be converted until  
16 otherwise authorized by the authorizer in  
17 consultation with the department; and

18 (iv) Have the same protections that are afforded  
19 to all other governing boards in its role as  
20 the conversion charter school governing  
21 board.



1 (c) The charter school application process and schedule  
2 shall be determined by the authorizer, and shall provide for and  
3 include, at a minimum, the following elements:

4 (1) The issuance and publication of [~~a request for~~  
5 ~~proposals~~] an application process by the authorizer on  
6 the authorizer's internet website that, at a minimum:

7 (A) Solicits charter applications and presents the  
8 authorizer's strategic vision for chartering;

9 (B) Includes or directs applicant governing boards to  
10 the performance framework developed by the  
11 authorizer in accordance with section 302D-16;

12 (C) Includes statutory criteria that will guide the  
13 authorizer's decision to approve or deny a  
14 charter application;

15 (D) States clear, appropriately detailed questions  
16 and provides guidelines concerning the format and  
17 content essential for applicant governing boards  
18 to demonstrate the capacities necessary to  
19 establish and operate a successful charter  
20 school; and



- 1           (E) Requires charter applications to provide or  
2           describe all essential elements, as determined by  
3           the authorizer, of proposed school plans;
- 4       (2) The submission of a letter of intent to notify the  
5       authorizer of the applicant's intent to apply to open  
6       and operate a start-up charter school or to convert a  
7       department school to a conversion charter school;  
8       provided that anyone that submits a letter of intent  
9       is subsequently entitled to submit an application;
- 10      (3) The timely submission of a completed charter  
11      application to the authorizer; provided that a charter  
12      application for a conversion charter school shall  
13      include certification and documentation that the  
14      charter application was approved by a majority of the  
15      votes cast by existing administrative, support, and  
16      teacher personnel, and parents of students at the  
17      existing department school; provided that:
- 18           (A) This vote shall be considered by the authorizer  
19           to be the primary indication of the existing  
20           administrative, support, and teaching personnel,



1                   and parents' approval to convert to a charter  
2                   school;

3                   (B) The balance of stakeholders represented in the  
4                   vote and the extent of support received in  
5                   support of the conversion shall be key factors,  
6                   along with the applicant's proposed plans, to be  
7                   considered by the authorizer when deciding  
8                   whether to award a charter; and

9                   (C) A breakdown of the number of administrative,  
10                  support, and teaching personnel, and parents of  
11                  students who constitute the existing department  
12                  school and the number who actually participated  
13                  in the vote shall be provided to the authorizer;

14                 (4) The timely review of the charter application by the  
15                 authorizer for completeness, and notification by the  
16                 authorizer to the applicant governing board that the  
17                 charter application is complete[+] or if the  
18                 authorizer determines that the application is  
19                 incomplete, notification by the authorizer to the  
20                 applicant governing board that the application is  
21                 incomplete that provides a detailed listing of any



1 missing elements of the application and reasonable  
2 opportunity for the applicant governing board to cure  
3 any deficiency;

4 (5) Upon receipt of a completed charter application, the  
5 review and evaluation of the charter application by  
6 qualified persons including but not limited to:

7 (A) An in-person interview with representatives from  
8 the applicant governing board; and

9 (B) An opportunity in a public forum for the public  
10 to provide input on each charter application;

11 (6) Following the review and evaluation of a charter  
12 application, approval or denial of the charter  
13 application by the authorizer in a meeting open to the  
14 public[?] and subsequent written notice to the  
15 applicant and in the event of a denial, the notice  
16 must provide specific information to the applicant on  
17 its appeal rights to the board, including without  
18 limitation, the number of days by which the applicant  
19 must file an appeal with the board and where the  
20 applicant should file the appeal;



1           (7) A provision for a final date by which a written  
2           decision to approve or deny a charter application must  
3           be made by the authorizer, upon receipt of a complete  
4           charter application[~~;~~and] from the applicant;  
5           provided that if no written decision is provided by  
6           that date, the application shall be deemed approved;  
7           and

8           (8) A provision that no charter school may begin operation  
9           before obtaining authorizer approval of its charter  
10          application and charter contract and fulfilling pre-  
11          opening requirements that may be imposed by the  
12          authorizer, pursuant to section 302D-14.5.

13          (d) A charter application to become a start-up or  
14          conversion charter school shall meet the requirements of this  
15          subsection, section 302D-25, and any other requirements set by  
16          the authorizer. The charter application shall, at a minimum:

17           (1) Include plans for a charter school that are likely to  
18           satisfactorily meet the academic, financial,  
19           organizational, and operational performance  
20           indicators, measures, and metrics set forth in the





1 authorizer's performance framework, pursuant to  
2 section 302D-16;

3 (2) Include plans for a charter school that is in  
4 compliance with applicable laws; and

5 (3) [{}Recognize[{} the interests of the general public.

6 (e) In reviewing a charter application under this section,  
7 an authorizer shall take into consideration the constitution of  
8 the applicant governing board, terms of applicant governing  
9 board members, and the process by which applicant governing  
10 board members were selected.

11 (f) In reviewing charter applications under this section,  
12 an authorizer shall develop a schedule to approve or deny a  
13 charter application by the end of the calendar year prior to the  
14 opening year of the proposed charter school for purposes of  
15 meeting any deadlines to request funding from the legislature;  
16 provided that nothing in this section shall be construed as  
17 requiring an authorizer to accept and review charter  
18 applications annually.

19 (g) If a conflict between the provisions in this section  
20 and other provisions in this chapter occurs, this section shall  
21 control.



1        (h) If an authorizer takes any action that prohibits an  
2 applicant from proceeding with an application for any reason,  
3 that action shall be deemed a denial and subject to appeal  
4 pursuant to section 302D-15."

5        SECTION 2. Section 302D-15, Hawaii Revised Statutes, is  
6 amended to read as follows:

7        **"§302D-15 Appeals; charter applications, renewals, or**  
8 **revocations.** (a) The board shall have the power to decide  
9 appeals of decisions by an authorizer to deny the approval of a  
10 charter application, deny renewal of a charter contract, or  
11 revoke a charter school's charter contract. An appeal shall be  
12 filed with the board within twenty-one calendar days of the  
13 receipt of the notification of denial or revocation. Only a  
14 party whose charter application has been denied, whose charter  
15 contract renewal has been denied, or whose charter contract has  
16 been revoked may initiate an appeal under this section for  
17 cause. The board shall review an appeal and issue a final  
18 decision within sixty calendar days of the filing of the appeal.

19        (b) The board shall serve as the final arbitrator of  
20 appeals authorized by subsection (a) [~~-~~] and the authorizer shall  
21 act in accordance with the board's decision within the timeframe



1 stated by the board or in the absence of a timeframe, the  
2 reasonable amount of time needed to comply. If an authorizer  
3 fails to timely comply with the final decision of the board, the  
4 board may impose a penalty on the authorizer, including without  
5 limitation, fining the authorizer for every day the authorizer  
6 is not in compliance, implementing the decision and binding the  
7 authorizer to the final decision, or revoking the authorizer's  
8 charter authority consistent with section 302D-11(e).

9 (c) A party shall not be entitled to a hearing before the  
10 board under this section until it has exhausted all available  
11 administrative remedies.

12 (d) The board shall adopt rules pursuant to chapter 91 to  
13 implement this section.

14 (e) If the board overrules a denial or revocation by an  
15 authorizer, at the option of the charter school, another  
16 eligible authorizer may be designated as the authorizer for  
17 ongoing operations of the charter school; provided that the new  
18 authorizer accepts the charter school."

19 SECTION 3. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4 INTRODUCED BY: Michelle N. Tidani



# S.B. NO. 814

**Report Title:**

Charter Schools; Application; Appeals; Board of Education

**Description:**

Clarifies the process for applicants to submit a letter of intent to apply to open and operate a charter school. Provides for penalties for authorizers who fail to timely comply with board decisions.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

