

JAN 19 2022

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 there have been
2 reports that the state public charter school commission has
3 placed certain conditions on per-pupil funding allocations that
4 are inconsistent with chapter 302D, Hawaii Revised Statutes, and
5 the legislative intent of that chapter.

6 The purpose of this Act is to ensure compliance with the
7 letter and spirit of chapter 302D by:

- 8 (1) Repealing the exemption for charter schools from
9 requirements on the administration and use of the
10 federal funds allocated to the State for public
11 education purposes;
- 12 (2) Clarifying that the disbursement of these funds shall
13 not be conditioned on the agreement of a public
14 charter school to amend an existing charter contract;
15 and
- 16 (3) Amending the manner in which federal funds are
17 disbursed to public charter schools.



1 SECTION 2. Section 302D-25, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§302D-25 Applicability of state laws. (a) Charter
4 schools shall be exempt from chapters 91 and 92 and all other
5 state laws in conflict with this chapter, except those
6 regarding:

7 (1) Collective bargaining under chapter 89; provided that:

8 (A) The exclusive representatives as defined in
9 chapter 89 and the governing board of the charter
10 school may enter into supplemental agreements
11 that contain cost and noncost items to facilitate
12 decentralized decision-making;

13 (B) The agreements shall be funded from the current
14 allocation or other sources of revenue received
15 by the charter school; provided that collective
16 bargaining increases for employees shall be
17 allocated by the department of budget and finance
18 to the charter school's authorizer for
19 distribution to the charter school; and

20 (C) These supplemental agreements may differ from the
21 master contracts negotiated with the department;



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1 (2) Discriminatory practices under section 378-2; and

2 (3) Health and safety requirements.

3 (b) Charter schools, the commission, and authorizers shall
4 be exempt from chapter 103D, but shall develop internal policies
5 and procedures for the procurement of goods, services, and
6 construction, consistent with the goals of public accountability
7 and public procurement practices. Charter schools, the
8 commission, and authorizers are encouraged to use the provisions
9 of chapter 103D where possible; provided that the use of one or
10 more provisions of chapter 103D shall not constitute a waiver of
11 the exemption from chapter 103D and shall not subject the
12 charter school, commission, or authorizer to any other provision
13 of chapter 103D. Charter schools, the commission, and
14 authorizers shall account for funds expended for the procurement
15 of goods and services, and this accounting shall be available to
16 the public.

17 (c) Charter schools and their employees, the commission
18 and its employees, and governing boards and their members shall
19 be subject to chapter 84.

20 (d) Any charter school, prior to the beginning of the
21 school year, may enter into an annual contract with any



1 department for centralized services to be provided by that
2 department.

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

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

9 ~~(g)]~~ (f) For purposes of statutory delegation of authority
10 to department heads by other state agencies, the executive
11 director shall be deemed the department head of the commission
12 and charter schools unless otherwise specifically provided."

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

16 "(d) Charter schools shall be eligible for all federal
17 financial support to the same extent as department schools. The
18 department shall provide all authorizers with all state-level
19 federal grant proposals submitted by the department that include
20 charter schools as potential recipients and timely reports on
21 state-level federal grants received for which charter schools



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1 may apply or are entitled to receive. Authorizers shall timely
2 provide this information to the charter schools, as applicable.
3 Federal funds received by the department for charter schools
4 shall be transferred [~~to authorizers for distribution~~] directly
5 to the charter schools [~~they authorize~~] in accordance with the
6 federal requirements. If administrative services related to
7 federal grants are provided to the charter school by the
8 department, the charter school shall reimburse the department
9 for the actual costs of the administrative services in an amount
10 that shall not exceed six per cent of the charter school's
11 federal grants.

12 Any charter school shall be eligible to receive any
13 supplemental federal grant or award for which any department
14 school may submit a proposal, or any supplemental federal grants
15 limited to charter schools; provided that if department
16 administrative services, including funds management, budgetary,
17 fiscal accounting, or other related services, are provided with
18 respect to these supplemental grants, the charter school shall
19 reimburse the department for the actual costs of the
20 administrative services in an amount that shall not exceed six



1 per cent of the supplemental grant for which the services are
2 used.

3 All additional funds generated by the governing boards,
4 that are not from a supplemental grant, shall be held separate
5 from allotted funds and may be expended at the discretion of the
6 governing boards.

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

18 Authorizers shall submit a report to the legislature no
19 later than twenty days prior to the convening of each regular
20 session that contains each charter school's current school year
21 projection that is used to submit the budget request, the



1 updated May 15 enrollment projection, the actual October 15
2 enrollment count, the authorizer's reviewed and verified
3 enrollment count, and the November 15 enrollment count.

4 (f) To enable charter schools to access state funding
5 prior to the start of each school year, foster their fiscal
6 planning, enhance their accountability, and avoid over-
7 allocating general funds to charter schools based on self-
8 reported enrollment projections, [~~authorizers~~] the department of
9 budget and finance shall:

10 (1) Provide sixty per cent of a charter school's per-pupil
11 allocation based on the charter school's projected
12 student enrollment no later than July 20 of each
13 fiscal year; provided that the charter school shall
14 have submitted to its authorizer a projected student
15 enrollment no later than May 15 of each year;

16 (2) Provide an additional thirty per cent of a charter
17 school's per-pupil allocation no later than December 1
18 of each year, based on the October 15 student
19 enrollment, as reviewed and verified by the
20 authorizer; provided that the school is in compliance
21 with all financial reporting requirements; and



1 (3) Retain no more than the balance of the remaining ten
 2 per cent of a charter school's per-pupil allocation,
 3 as a contingency balance to ensure fiscal
 4 accountability and compliance, no later than June 30
 5 of each year;

6 provided that [~~authorizers~~] the department of budget and
 7 finance, in consultation with the board, may make adjustments in
 8 allocations based on noncompliance with charter contracts and
 9 the board may make adjustments in allocations based on
 10 noncompliance with board policies made in the board's capacity
 11 as the state education agency, department directives made in the
 12 department's capacity as the state education agency, the board's
 13 administrative procedures, and board-approved accountability
 14 requirements."

15 SECTION 4. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2022.

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INTRODUCED BY:

Francine R. Brown



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Report Title:

Charter Schools; State Public Charter School Commission; Federal Funding

Description:

Removes federal funds disbursement authority from State Public Charter School Commission. Authorizes the Department of Budget and Finance to disburse federal 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.

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