



LINDA LINGLE  
GOVERNOR

LINDA L. SMITH  
SENIOR POLICY ADVISOR

**STATE OF HAWAII**  
**GOVERNOR'S POLICY OFFICE**  
EXECUTIVE CHAMBERS  
HONOLULU, HAWAII 96813  
(808) 586-5330

Testimony of Linda L. Smith  
Senior Policy Advisor to the Governor

Before the

SENATE COMMITTEE ON EDUCATION  
on  
SENATE BILL No. 3038

Wednesday, January 30, 2008  
1:15 P.M.

Chair Sakamoto, Vice Chair Tokuda, and members of the committee, thank you for the opportunity to provide testimony in strong support of Senate Bill 3038.

The Administration would like to commend the Legislature for enacting landmark legislation in 2007 that advanced Hawaii's charter school movement thru the implementation of Act 115. While Act 115 provided milestone gains for the Charter School Review Panel and charter schools in general, there were unforeseen complications and challenges with implementing various provisions of the law. This bill was developed in response to these challenges and represents the next steps for the evolution of Hawaii's charter school environment.

Senate Bill 3038 adjusts the membership of the Charter School Review Panel by replacing the member of the Board of Education with a member who has a background in accounting or finance. There are conflicts of interest that arise when a member of the Board of Education also sits on the Charter School Review Panel. First, the Board serves as the appeals body for charter school applicants who are not authorized charters by the Panel. An appeals body should be an unbiased group of individuals with no prior experience or affiliation with the charter school applicant. The Panel reviews intimate details of the schools financial and detailed implementation plans, in addition to other information and discussions which occur in Executive Session. Allowing a Panel member to sit and vote on both the authorizing body (Panel) and appeals body (Board) creates the opportunity for conflicts of interest. Second, having a seat at both tables presents the possible situation of a breach in confidentiality of attorney-client privilege. The Charter School Review Panel often consults with their deputy attorney general on confidential matters in Executive Session. Likewise, the Board of Education often consults with their deputy attorney general on confidential matters in Executive Session. The best interests

and priorities of charter schools and the Charter School Review Panel are not always going to be on par and in line with the best interests and priorities of the Board of Education; this is part of the natural dynamic between the two systems of education. It is inappropriate to allow a member of the Board of Education to be privy to the legal advice that is given to the Charter School Review Panel on issues that may place the Panel at odds with the Board of Education, or vice-versa. We note that there is no Charter School Review Panel member or charter school representative who sits on the Board of Education, even as an ex-officio member. For these two reasons we propose replacing the Board of Education representative on the Panel with another member who has expertise in finance or accounting.

The second change we are proposing is to allow the Governor to nominate the members of the Panel, rather than the Board of Education. Again, the Administration is confident that two separate bodies who manage the authorization of charters and the appeals process for applicants who are not chartered, is a more efficient, fair, and unbiased process. Therefore, we believe the appeals body should not be the appointing authority for the authorizing body; having such a process creates the opportunity for the appeals body to control the authorizer.

Third, we propose to eliminate the statutory cap on charter schools. We point out that although the Panel could have authorized three charter schools this past year, only two were approved. The Panel developed application criteria, established a scoring system and rubric, and exercised their judgment of how many charters should be authorized based on the quality of the application. We propose eliminating the statutory cap and clarifying in statute that the Panel can establish their own criteria for approving charter applications and specifying that the Panel can establish limitations on the number of charters that will be authorized specific to each round of applications.

Fourth, this bill clearly applies Chapter 92 to the Panel. Challenges and frustrations arose over the past year with public access to documents, meeting agendas, and meeting minutes for the Panel. This change will clarify that the Panel is subject to the Sunshine Law, and will provide assurance to the public and prospective applicants that there is a public hearing and information process in place that the Panel will adhere to.

Fifth, this bill clarifies that the deputy attorney general who advises and represents the Charter School Review Panel does not represent, or function as a subordinate of a deputy attorney general who represents, the Board of Education. This provision will further assure attorney-client privilege, confidentiality of information, and reduce the possibility of conflicts of interest.

Lastly, this bill assures funding for start up charter schools without a reduction in funding for existing charter schools.

We urge the committee to pass this measure out for further consideration. Thank you for the opportunity to testify.



## KAMEHAMEHA SCHOOLS

Testimony to the Senate Committees on Education  
Hearing Date: Wednesday, January 30, 2008  
1:15p.m. – Conference Room 225

**Shawn Malia Kana'iaupuni, PhD**  
**Director, Public Education Support (PEdS) Division**  
Kamehameha Schools

Tuesday, January 29, 2008

Re: SB 3038 – Relating to Public Charter Schools

Good afternoon Chair Sakamoto, Vice Chair Tokuda and members of the Senate Committee on Education. My name is Shawn Malia Kana'iaupuni, PhD, Director, Public Education Support (PEdS) Division of Kamehameha Schools. Thank you for this opportunity to testify on SB 3038.

We strongly support the removal of the cap on the number of start up charter schools and ensuring funding for new charter schools. We also believe that the charter school review panel should be subject to Hawaii's sunshine law.

Kamehameha Schools has been a collaborator in the charter school movement for more than six years now. As part of our Education Strategic plan, KS hopes to significantly impact more Hawaiian children ages 0-8 and grades 4-16+, and their families/ caregivers over the next five years, in collaboration with others whenever possible.

Currently, Kamehameha Schools collaborates with 14 nonprofit tax-exempt organizations, including `Aha Pūnana Leo, OHA, KALO and Ho`okāko`o Corporation, to assist a total of 12 start-up and 3 conversion charters. Kamehameha Schools believes that this collaboration provides more positive educational choices and ultimately academic achievement for Hawaiian students. Through these collaborations, Kamehameha Schools currently assists more than 3,000 students in 13 communities on 4 major islands, within the public education system.

In a report released August 2006 entitled, "Longitudinal Outcomes for Hawaiian-focused charter schools," the Kamehameha Schools research team concluded that Hawaiian-focused charter schools are implementing viable educational strategies, making significant gains over time for the lowest-achieving students. Supporting and replicating the successful strategies found in Hawaiian-focused charter schools may generate a promising return on investment for Hawaiian education throughout the public school system.

Kamehameha Schools supports the intent of SB 3038 which is to provide a greater measure of support for charter schools.

We appreciate this opportunity to submit comments on SB 3038 and support the initiatives of the legislature to further enhance charter schools.