
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 various amendments to
13 charter school administration and operations.

14 SECTION 2. Section 302B-1, Hawaii Revised Statutes, is
15 amended by amending the definitions of "local school board" and
16 "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 applicable federal and state laws[~~, [and] has~~] and
10 board and department directives made in the board's
11 and department's role as the state education agency,
12 as agreed upon in a memorandum of agreement between
13 the board and the panel, which identifies those
14 directives, and is valid for a period of one year; and

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

18 "Organizational viability" means that a charter school:

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

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



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



1 the board's and department's role as the state
2 education agency, as agreed upon in a memorandum of
3 agreement between the board and the panel, which
4 identifies those directives, and is valid for a period
5 of one year."

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

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

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

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

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

21 SECTION 4. Section 302B-5, Hawaii Revised Statutes, is
22 amended by amending subsection (d) to read as follows:



1 "(d) An application to become a start-up charter school
2 shall include a detailed implementation plan that meets the
3 requirements of this subsection and section 302B-9. The plan
4 shall include the following:

- 5 (1) A description of employee rights and management issues
6 and a framework for addressing those issues that
7 protects the rights of employees;
- 8 (2) A plan for identifying, recruiting, and retaining
9 highly-qualified instructional faculty;
- 10 (3) A plan for identifying, recruiting, and selecting
11 students that is not exclusive, elitist, or
12 segregationist;
- 13 (4) The curriculum and instructional framework to be used
14 to achieve student outcomes, including an assessment
15 plan;
- 16 (5) A plan for the assessment of student, administrative
17 support, and teaching personnel performance that:
 - 18 (A) Recognizes the interests of the general public;
 - 19 (B) Incorporates or exceeds the educational content
20 and performance standards developed by the
21 department for the public school system;



- 1 (C) Includes a system of faculty and staff
2 accountability that holds faculty and staff both
3 individually and collectively accountable for
4 their performance, and that is at least
5 equivalent to the average system of
6 accountability in public schools throughout the
7 ~~[State;]~~ state; and
- 8 (D) Provides for program audits and annual financial
9 audits;
- 10 (6) A governance structure for the charter school that
11 incorporates a conflict of interest policy and a plan
12 for periodic training to carry out the duties of local
13 school board members;
- 14 (7) A financial plan [~~based on the most recent fiscal~~
15 ~~year's per pupil charter school allocation~~] that
16 demonstrates the ability to meet the financial
17 obligations of one-time, start-up costs and ongoing
18 costs such as monthly payrolls, faculty recruitment,
19 professional development, and facilities costs; and
- 20 (8) A facilities plan."

21 SECTION 5. Section 302B-6, Hawaii Revised Statutes, is
22 amended by amending subsection (d) to read as follows:



- 1 "(d) An application to become a conversion charter school
2 shall include a detailed implementation plan that meets the
3 requirements of this subsection and section 302B-9. The plan
4 shall include the following:
- 5 (1) A description of employee rights and management issues
6 and a framework for addressing those issues that
7 protects the rights of employees;
- 8 (2) A plan for identifying, recruiting, and retaining
9 highly-qualified instructional faculty;
- 10 (3) A plan for identifying, recruiting, and selecting
11 students that is not exclusive, elitist, or
12 segregationist;
- 13 (4) The curriculum and instructional framework to be used
14 to achieve student outcomes, including an assessment
15 plan;
- 16 (5) A plan for the assessment of student, administrative
17 support, and teaching personnel performance that:
- 18 (A) Recognizes the interests of the general public;
- 19 (B) Incorporates or exceeds the educational content
20 and performance standards developed by the
21 department for the public school system;



- 1 (C) Includes a system of faculty and staff
- 2 accountability that holds faculty and staff both
- 3 individually and collectively accountable for
- 4 their performance, and that is at least
- 5 equivalent to the average system of
- 6 accountability in public schools throughout the
- 7 ~~[State;]~~ state; and
- 8 (D) Provides for program audits and annual financial
- 9 audits;
- 10 (6) A governance structure for the charter school that
- 11 incorporates a conflict of interest policy and a plan
- 12 for periodic training to carry out the duties of local
- 13 school board members;
- 14 (7) A financial plan [~~based on the most recent fiscal~~
- 15 ~~year's per pupil charter school allocation]~~ that
- 16 demonstrates the ability to meet the financial
- 17 obligations of one-time, start-up costs and ongoing
- 18 costs such as monthly payrolls, faculty recruitment,
- 19 professional development, and facilities costs; and
- 20 (8) A facilities plan."

21 SECTION 6. Section 302B-8, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§302B-8 Charter school administrative office.** (a) There
2 is established a charter school administrative office, which
3 shall be attached to the department for administrative purposes
4 only. The office shall be administered by an executive
5 director, who shall be appointed without regard to chapters 76
6 and 89 by the panel based upon the recommendations of an
7 organization of charter schools operating within the [State]
8 state or from a list of nominees submitted by the charter
9 schools. The panel [~~shall~~]:

- 10 (1) Shall hire the executive director, who may be
11 contracted for a term of up to four years; [~~shall~~]
12 (2) Shall offer the executive director a written contract;
13 and [~~may~~]
14 (3) May terminate the executive director's contract only
15 for cause.

16 The executive director, with the approval of the panel, may
17 hire necessary staff without regard to chapters 76 and 89 to
18 assist in the administration of the office.

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



- 1 (1) Preparing and executing the budget for the charter
2 schools, including submission of the budget request to
3 the board, the governor, and the legislature;
- 4 (2) Allocating annual appropriations to the charter
5 schools and distribution of federal funds to charter
6 schools;
- 7 (3) Complying with applicable state laws related to the
8 administration of the charter schools;
- 9 (4) Preparing contracts between the charter schools and
10 the department for centralized services to be provided
11 by the department;
- 12 (5) Preparing contracts between the charter schools and
13 other state agencies for financial or personnel
14 services to be provided by the agencies to the charter
15 schools;
- 16 (6) Providing independent analysis and recommendations on
17 charter school issues;
- 18 (7) Representing charter schools and the charter school
19 system in communications with the board, the governor,
20 and the legislature;



- 1 (8) Providing advocacy, assistance, and support for the
2 development, growth, progress, and success of charter
3 schools and the charter school system;
- 4 (9) Providing guidance and assistance to charter
5 applicants and charter schools to enhance the
6 completeness and accuracy of information for panel
7 review;
- 8 (10) Assisting charter applicants and charter schools in
9 coordinating their interactions with the panel as
10 needed;
- 11 (11) Assisting the panel to coordinate with charter schools
12 in panel investigations and evaluations of charter
13 schools;
- 14 (12) Serving as the conduit to disseminate communications
15 from the panel, the board, and the department to all
16 charter schools;
- 17 (13) Determining charter school system needs and
18 communicating those needs to the panel, the board, and
19 the department;
- 20 (14) Establishing a dispute resolution and mediation
21 process; and



1 (15) Upon request by one or more charter schools, assisting
2 in the negotiation of a collective bargaining
3 agreement with the exclusive representative of its
4 employees.

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

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

17 [~~(e) The office shall include in its annual budget request~~
18 ~~additional funds to cover the estimated costs of:~~

19 (1) ~~Vacation and sick leave accrued by employees~~
20 ~~transferring to a charter school from another state~~
21 ~~agency or department;~~



1 ~~(2) Substitute teachers needed when a teacher is out on~~
2 ~~vacation or sick leave;~~

3 ~~(3) Adjustments to enrollments; and~~

4 ~~(4) Arbitration in the grievance process.~~

5 ~~(f)]~~ (e) The office shall withhold funds for charter
6 school enrollments that are inconsistent with approved detailed
7 implementation plans.

8 ~~(g)]~~ (f) The office shall withhold funds to repay
9 overpayments or over-allocations received by charter schools
10 when not repaid in a timely manner in accordance with rules
11 adopted by the board.

12 ~~(h)]~~ (g) The office may carry over funds from previous
13 year allocations. Funds distributed to charter schools shall be
14 considered expended."

15 SECTION 7. Section 302B-12, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§302B-12 Funding and finance.** ~~[(a) Beginning with~~
18 ~~fiscal year 2006-2007, and each fiscal year thereafter, the~~
19 ~~office shall submit a request for general fund appropriations~~
20 ~~for each charter school based upon:~~

21 ~~(1) The actual and projected enrollment figures in the~~
22 ~~current school year for each charter school;~~



1 ~~(2) A per-pupil amount for each regular education and~~
2 ~~special education student, which shall be equivalent~~
3 ~~to the total per-pupil cost based upon average~~
4 ~~enrollment in all regular education cost categories,~~
5 ~~including comprehensive school support services but~~
6 ~~excluding special education services, and for all~~
7 ~~means of financing except federal funds, as reported~~
8 ~~in the most recently approved executive budget~~
9 ~~recommendations for the department; provided that in~~
10 ~~preparing the budget the executive director shall~~
11 ~~include an analysis of the proposed budget in~~
12 ~~relationship to the most recently published department~~
13 ~~consolidated annual financial report; provided further~~
14 ~~that the legislature may make an adjustment to the~~
15 ~~per-pupil allocation for the purposes of this section;~~
16 ~~and~~

17 ~~(3) These fringe benefit costs requested shall be included~~
18 ~~in the department of budget and finance's annual~~
19 ~~budget request. No fringe benefit costs shall be~~
20 ~~charged directly to or deducted from the charter~~
21 ~~school per-pupil allocations unless they are already~~



1 ~~included in the funds distributed to the charter~~
2 ~~school.~~

3 ~~The legislature shall make an appropriation based upon the~~
4 ~~budget request; provided that the legislature may make~~
5 ~~additional appropriations for fringe, workers' compensation, and~~
6 ~~other employee benefits, facility costs, and other requested~~
7 ~~amounts.~~

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

11 (a) The budgetary request submitted by the office to the
12 director of finance shall expressly identify all means of
13 financing.

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



1 accordance with the federal requirements. If administrative
2 services related to federal grants and subsidies are provided to
3 the charter school by the department, the charter school shall
4 reimburse the department for the actual costs of the
5 administrative services in an amount that shall not exceed six
6 and one-half per cent of the charter school's federal grants and
7 subsidies.

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

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 (c) To enable charter schools to access state funding
2 prior to the start of each school year, foster their fiscal
3 planning, and enhance their accountability, the office shall:

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

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

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

19 (B) An accounting of the percentage of student
20 enrollment that transferred from public schools
21 established and maintained by the department;
22 provided that these accountings shall also be



1 submitted by the office to the legislature no
2 later than twenty days prior to the start of each
3 regular session; and

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

8 provided that the panel may make adjustments in allocations
9 based on noncompliance with [~~federal and state reporting~~
10 ~~requirements,~~] the office's administrative procedures, [~~and~~]
11 board-approved accountability requirements[-], and board and
12 department directives made in the board's and department's role
13 as the state education agency, as agreed upon in a memorandum of
14 agreement between the board and the panel, which is valid for a
15 period of one year, identifying those directives.

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

20 (e) No start-up charter school or conversion charter
21 school may assess tuition."



1 SECTION 8. Section 302B-14, Hawaii Revised Statutes, is
2 amended as follows:

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

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

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

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

12 (1) The panel evaluates the charter school or reviews an
13 evaluation of the charter school;

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

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



1 (4) For deficiencies related to student performance, a
2 charter school [~~shall~~] may be allowed up to two years
3 to improve student performance;

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

7 (6) For deficiencies related to organizational viability,
8 a charter school may be allowed up to one year to
9 improve administrative compliance.

10 The charter school shall remain on probationary status
11 until the panel votes either to remove the charter school from
12 probationary status or revoke its charter. A charter school's
13 failure to comply with the terms of its probation shall be
14 grounds for revocation of its charter prior to the end of the
15 probationary period."

16 3. By amending subsections (g) and (h) to read:

17 "(g) If there is an immediate concern for student or
18 employee health or safety at a charter school, the panel, in
19 consultation with the office, may adopt an interim restructuring
20 plan that may include the appointment of an interim local school
21 board, an interim local school board chairperson, or a principal
22 to temporarily assume operations of the school; provided that if



1 possible without further jeopardizing the health or safety of
2 students and employees, the charter school's stakeholders and
3 community are first given the opportunity to elect a new local
4 school board which shall appoint a new interim principal. The
5 board shall have the authority to direct the panel to take
6 appropriate action to immediately address serious health and
7 safety issues that may exist at a charter school to ensure the
8 health and safety of students and employees and mitigate
9 significant liability to the State.

10 [~~(h) The board shall adopt rules pursuant to chapter 91~~
11 ~~for placing charter schools on probation and for revoking a~~
12 ~~charter.]"~~

13 SECTION 9. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 10. This Act shall take effect upon its approval.



S.B. NO. 496
S.D. 2
H.D. 2

Report Title:
Charter Schools

Description:
Makes various amendments to charter school administration and operations. (SB496 HD2)

SB496 HD2 HMS 2009-3735

