
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 clarifying amendments to
13 charter school administration, including among other things:

14 (1) Requiring a charter school board to comply with board
15 of education policies and department of education
16 directives regarding special education and federal
17 programs;

- 1 (2) Clarifying that the charter school review panel is
- 2 subject to the requirements of the sunshine law.
- 3 (3) Authorizing the board of education to remove a charter
- 4 school review panel member for cause;
- 5 (4) Requiring the charter school review panel to approve
- 6 the charter schools budget, capital improvement
- 7 projects, and recommendations to allocate non-per-
- 8 pupil facilities funds to charter schools with
- 9 facilities needs;
- 10 (5) Specifying the duties of the executive director of the
- 11 charter school administrative office with regard to
- 12 the preparation of the budget;
- 13 (6) Changing the requirements for the per-pupil funding,
- 14 and reducing the amount the department of education
- 15 may retain for administrative costs from charter
- 16 schools federal funds; and
- 17 (7) Requiring the charter school review panel to evaluate
- 18 a charter school on its fourth anniversary and every
- 19 five years after.

20 SECTION 2. Section 302B-1, Hawaii Revised Statutes, is

21 amended by amending the definitions of "local school board" and

22 "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 board policies made in the board's capacity as the
10 state education agency, department directives made in
11 the department's capacity as the state education
12 agency, and applicable federal and state laws[~~, [and]~~
13 ~~has~~]; and

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

17 "Organizational viability" means that a charter school:

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

20 (2) Has a local school board established in accordance
21 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 [~~and~~];

1 (12) Complies with board policies made in the board's
2 capacity as the state education agency regarding
3 special education and federal programs; and

4 (13) Complies with department directives in the
5 department's capacity as the state education agency
6 regarding special education and federal programs."

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

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

10 "(a) There is established the charter school review panel,
11 which shall be placed within the department for administrative
12 purposes only. The panel shall be accountable to the charter
13 schools and the board. Notwithstanding section 302B-9[~~r~~] or any
14 other law to the contrary, the panel shall be subject to chapter
15 92."

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

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

22 3. By amending subsections (i) and (j) to read:

- 1 "(i) The powers and duties of the panel shall be to:
- 2 (1) Appoint and evaluate the executive director and
- 3 approve staff and salary levels for the charter school
- 4 administrative office;
- 5 (2) Review, approve, or deny charter applications for new
- 6 charter schools in accordance with section 302B-5 for
- 7 the issuance of new charters; provided that applicants
- 8 that are denied a charter may appeal to the board for
- 9 a final decision pursuant to section 302B-3.5;
- 10 (3) Review, approve, or deny significant amendments to
- 11 detailed implementation plans to maximize the school's
- 12 financial and academic success, long-term
- 13 organizational viability, and accountability. Charter
- 14 schools that are denied a significant amendment to
- 15 their detailed implementation plan may appeal to the
- 16 board for a final decision pursuant to section 302B-
- 17 3.5;
- 18 (4) Adopt reporting requirements for charter schools;
- 19 (5) Review annual self-evaluation reports from charter
- 20 schools and take appropriate action;

- 1 (6) Evaluate any aspect of a charter school that the panel
2 may have concerns with and take appropriate action,
3 which may include probation or revocation;
- 4 (7) Periodically adopt improvements in the panel's
5 monitoring and oversight of charter schools; [~~and~~]
- 6 (8) Periodically adopt improvements in the office's
7 support of charter schools and management of the
8 charter school system[-];
- 9 (9) Review, modify, and approve the charter schools
10 budget, based upon criteria and an approval process
11 established by the panel;
- 12 (10) Review, modify, and approve the capital improvement
13 projects budget for charter school facilities, based
14 upon criteria and an approval process established by
15 the panel; provided that, upon approval, the office
16 shall submit the capital improvement projects budget
17 for charter school facilities directly to the
18 department of budget and finance; and
- 19 (11) Review, modify, or approve recommendations of the
20 office to allocate non-per-pupil facilities funds to
21 charter schools with facilities needs.

1 (j) In the case that the panel decides not to issue a new
2 charter, or to approve significant amendments to detailed
3 implementation plans, the board may adopt rules for an appeals
4 process pursuant to section 302B-3.5."

5 SECTION 4. Section 302B-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§302B-8 Charter school administrative office.** (a) There
8 is established a charter school administrative office, which
9 shall be attached to the department for administrative purposes
10 only. The office shall be administered by an executive
11 director, who shall be appointed without regard to chapters 76
12 and 89 by the panel based upon the recommendations of an
13 organization of charter schools operating within the State or
14 from a list of nominees submitted by the charter schools. The
15 panel shall hire the executive director, who may be contracted
16 for a term of up to four years; shall offer the executive
17 director a written contract; and may terminate the executive
18 director's contract only for cause. The executive director,
19 with the approval of the panel, may hire necessary staff without
20 regard to chapters 76 and 89 to assist in the administration of
21 the office.

1 (b) The executive director, under the direction of the
2 panel and in consultation with the charter schools, shall be
3 responsible for the internal organization, operation, and
4 management of the charter school system, including:

5 (1) Preparing and executing the budget for the charter
6 schools, including submission of the budget request to
7 the panel, the board, the governor, and the
8 legislature; provided that, in preparing the budget
9 request with regard to facilities funding, the
10 executive director shall ensure that the request
11 provides:

12 (A) Funding for actual enrollment figures in the
13 current school year for each charter school;

14 (B) Funding for projected enrollment increases or
15 decreases for each charter school;

16 (C) A calculation showing the per-pupil funding based
17 on a portion of the department's debt service
18 appropriation divided by the department's actual
19 enrollment that school year; and

20 (D) That no less than seventy per cent of the amount
21 requested shall be allocated by the office to
22 start-up charter schools on a per-pupil basis;

1 provided that the funds remaining shall be
2 allocated to charter schools with facilities
3 needs as recommended by the office and approved
4 by the panel;

5 (2) Allocating annual appropriations to the charter
6 schools and distribution of federal funds to charter
7 schools;

8 (3) Complying with applicable state laws related to the
9 administration of the charter schools;

10 (4) Preparing contracts between the charter schools and
11 the department for centralized services to be provided
12 by the department;

13 (5) Preparing contracts between the charter schools and
14 other state agencies for financial or personnel
15 services to be provided by the agencies to the charter
16 schools;

17 (6) Providing independent analysis and recommendations on
18 charter school issues;

19 (7) Representing charter schools and the charter school
20 system in communications with the board, the governor,
21 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[-]; and

5 (16) Preparing a separate capital improvement projects
6 budget request for charter school facilities, which
7 shall be submitted to the charter school review panel
8 for approval and, upon approval, submitting the
9 capital improvement projects budget for charter school
10 facilities directly to the department of budget and
11 finance and the board of education; provided that the
12 budget request shall show the relationship between the
13 proportionate share of the department's debt service
14 on this budget request.

15 (c) The executive director shall be evaluated annually by
16 the panel. The annual evaluation shall be conducted
17 sufficiently in advance of the end of a term to provide the
18 executive director the opportunity to respond to concerns and
19 improve performance.

20 (d) The salary of the executive director and staff shall
21 be set by the panel based upon the recommendations of charter
22 schools within the State; provided that the salaries and

1 operational expenses of the office shall be paid from the annual
2 charter school appropriation [~~and shall not exceed two per cent~~
3 ~~of the total allocation in any fiscal year.~~] at an amount to be
4 determined annually by the panel."

5 SECTION 5. Section 302B-12, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§302B-12 Funding and finance.** (a) Beginning with fiscal
8 year [~~2006-2007,~~] 2009-2010, and each fiscal year thereafter,
9 [~~the office shall submit a request for general fund~~
10 ~~appropriations for each charter school based upon:~~] the
11 per-pupil funding amount for charter school students shall not
12 be less than the total per-pupil amount in that same year to the
13 department; provided that:

14 (1) The amount shall provide funding for actual and
15 projected enrollment figures in the current school
16 year for each charter school; provided that the
17 amounts for actual and projected enrollments shall be
18 shown separately; and

19 (2) [~~A~~] The per-pupil amount [~~for each regular education~~
20 ~~and special education student, which shall be~~
21 ~~equivalent to the total per-pupil cost based upon~~
22 ~~average enrollment in~~] shall include, but not be

1 limited to, all regular education cost categories,
2 including comprehensive school support services, but
3 excluding special education services~~[7]~~; provided that
4 special education services are provided and funded by
5 the department, and ~~[for]~~ shall include all means of
6 financing except federal funds, as reported in the
7 most recently-approved executive budget
8 recommendations for the department; provided that in
9 preparing the budget the executive director shall
10 include an analysis of the proposed budget in
11 relationship to the most recently published department
12 consolidated annual financial report~~[, provided~~
13 ~~further that the legislature may make an adjustment to~~
14 ~~the per-pupil allocation for the purposes of this~~
15 ~~section,]~~ and fringe benefit costs, debt service, and
16 federal funds.

17 ~~[-(3) Those fringe]~~ (b) Fringe benefit costs ~~[requested]~~
18 for charter school employees, regardless of the payroll system
19 utilized by a charter school, shall be included in the
20 department of budget and finance's annual budget request.
21 Fringe benefit costs paid directly by a charter school to a
22 payroll system provider shall be reimbursed by the department of

1 budget and finance to the charter school on a quarterly basis.

2 No fringe benefit costs shall be charged directly to or deducted
3 from the charter school per-pupil allocations [~~unless they are~~
4 ~~already included in the funds distributed to the charter~~
5 ~~school~~].

6 The legislature shall [~~make an appropriation based upon the~~
7 ~~budget request;~~] provide funding for charter schools based upon
8 the requirements of this section; provided that the legislature
9 [~~may~~] shall make additional appropriations for fringe, workers'
10 compensation, and other employee benefits[~~7~~] and facility
11 costs[~~7~~, ~~and~~]. The legislature may make additional
12 appropriations for other requested amounts[~~7~~] that benefit
13 charter schools.

14 The governor, pursuant to chapter 37, may impose
15 restrictions or reductions on charter school appropriations
16 similar to those imposed on other public schools.

17 [~~(b)~~] (c) Charter schools shall be eligible for all
18 federal financial support to the same extent as all other public
19 schools. The department shall provide the office with all
20 state-level federal grant proposals submitted by the department
21 that include charter schools as potential recipients and timely
22 reports on state-level federal grants received for which charter

1 schools may apply or are entitled to receive. Federal funds
2 received by the department for charter schools shall be
3 transferred to the office for distribution to charter schools in
4 accordance with the federal requirements. [~~If administrative~~
5 ~~services related to federal grants and subsidies are provided to~~
6 ~~the charter school by the department, the charter school shall~~
7 ~~reimburse the department for the actual costs of the~~
8 ~~administrative services in an amount that shall not exceed six~~
9 ~~and one-half]~~ The department shall retain five per cent of the
10 charter school's federal grants and subsidies[-] as an
11 administrative fee.

12 Any charter school shall be eligible to receive any
13 supplemental federal grant or award for which any other public
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~~
21 ~~and one-half per cent of the supplemental grant for which the~~

1 ~~services are used.]~~ an administrative fee in the amount of five
2 per cent of the charter school's federal grants and subsidies.

3 All additional funds generated by the local school 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 local school boards.

7 [~~e~~] (d) To enable charter schools to access state
8 funding prior to the start of each school year, foster their
9 fiscal planning, and enhance their accountability, the office
10 shall:

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

17 (2) Provide an additional forty per cent of a charter
18 school's per-pupil allocation no later than
19 November 15 of each year; provided that the charter
20 school shall have submitted to the office:

21 (A) Student enrollment as verified on October 15 of
22 each year; provided that the student enrollment

1 shall be verified on the last business day
2 immediately prior to October 15 should that date
3 fall on a weekend; and

4 (B) An accounting of the percentage of student
5 enrollment that transferred from public schools
6 established and maintained by the department;
7 provided that these accountings shall also be
8 submitted by the office to the legislature no
9 later than twenty days prior to the start of each
10 regular session; and

11 (3) Retain the remaining ten per cent of a charter
12 school's per-pupil allocation no later than
13 [~~January 1~~] June 30 of each year as a contingency
14 balance to ensure fiscal accountability~~[+]~~ and
15 compliance;

16 provided that the panel may make adjustments in allocations
17 based on noncompliance with [~~federal and state reporting~~
18 ~~requirements,~~] board policies made in the board's capacity as
19 the state education agency, department directives made in the
20 department's capacity as the state education agency, the
21 office's administrative procedures, and board-approved
22 accountability requirements.

1 ~~[(d)]~~ (e) The department shall provide appropriate
2 transitional resources to a conversion charter school for its
3 first year of operation as a charter school based upon the
4 department's allocation to the school for the year prior to the
5 conversion.

6 ~~[(e)]~~ (f) No start-up charter school or conversion charter
7 school may assess tuition."

8 SECTION 6. Section 302B-14, Hawaii Revised Statutes, is
9 amended as follows:

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

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

16 2. By amending subsection (g) 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 in order to
8 ensure the health and safety of students and employees and
9 mitigate significant liability to the State."

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2045.

Report Title:

Charter Schools; Charter School Review Panel

Description:

Clarifies the functions, duties, and roles of the charter school review panel in the administration and operation of charter schools, and improves fiscal and budgetary accountability.
(SD1)