

LATE TESTIMONY

**Testimony Presented Before the
House Committee on Economic Revitalization, Business, and Military Affairs
and
House Higher Education Committee**

**Thursday, February 4, 2010 at 10:30 a.m.
Conference Room 312**

Written Testimony By

**Douglas Doi
Chair, Education Laboratory School Local School Board**

The Education Laboratory School's Local School Board appreciates the legislature's attempt to support the school, however we are opposed to HB2830. There are many statements contained in this bill that are highly inaccurate and if passed will have a negative impact on both the school, and its partner, the Curriculum Research & Development Group/College of Education (as specified in the school's Detailed Implementation Plan).

The facilities on the campus are shared by the Laboratory School, the Curriculum Research & Development Group, the College of Education, and other organizations. This arrangement has been collaborative and functional, and has served all parties well.

The Laboratory School does not operate a summer program nor summer school, and we question the need for the tuition provision in this bill. During the summer, the Curriculum Research & Development Group/College of Education operates summer enrichment programs (for students), and training and enrichment programs (for educators). We question the need for a tuition provision in this bill, as we have never operated a summer program.

In regards to Section 4 of the Bill, the document endorses the placement of a specific person to a position of power to the Local School Board, and it removes the Board's existing elected members. The Local School Board objects to the introduction of this bill because it is clearly designed to benefit

only one individual, who will be given the power to appoint the other members of the board (which is a violation of charter school law).

The Laboratory School is a high functioning public charter school. The Local School Board and our partner organization the Curriculum Research & Development Group/The College of Education are committed to providing the best possible education for our students and serving the educational mission of our organizations. We are not aware of problems that require legislative action and plan to continue and strengthen our partnership.

The Local School Board is opposed to the passage of HB 2830, and urges that the legislature carefully consider the interests of all parties. This Bill came as a surprise to all parties, and neither the Local School Board of the Education Laboratory School (also known as the University Laboratory School) nor UH Manoa requested this legislation.

Thank you for the opportunity to testify.

against charter schools charging tuition which is set forth in HRS, § 302B-12 (f).

There has been some criticism, written by lay persons who are unfit and incompetent to interpret and apply statutes, against this clarification as being unnecessary because the University of Hawaii and not the Ed Lab conducts the summer school in question. While this may be true, in practice, such a practice violates HRS, §304A-2266 since the plain language of that section states: "There is established the **education laboratory school** summer programs revolving fund, from which shall be paid the cost of operations of the **education laboratory school summer programs.**"

The foregoing statutory quotation clearly establishes that the Hawaii Legislature created summer school programs to be operated by the Ed Lab. If the statements of the critics to this bill were true, then the Legislature would have stated that the University of Hawaii College of Education shall operate a summer school program open to all students in the State of Hawaii, and not mention the Ed Lab at all in HRS, §304A-2266. As an attorney who has graduated on the Dean's List for two-thirds of my legal education at Georgetown Law, a "T-14" law school, and has successfully practiced law in the State of Hawaii for 30 years, with numerous victories before the Hawaii Supreme Court, the U.S. Court of Appeals for the Ninth Circuit and a successful defense against a U.S. Supreme Court *certiorari* petition, I can unequivocally state that my foregoing legal statutory interpretation is correct and the understanding of the foregoing statute by the critics, all of whom are lay persons, is simply wrong.

In endorsing the Ed Lab's application for charter school status, the University of Hawaii and its College of Education, via its Dean at the time, Randy Hitz, stated in writing to the Chairman of the State Board of Education ("BOE"), the State entity which grants or denies charters to Charter Schools, that:

"In support of the application of the Education Laboratory for charter school status, the University of Hawai'i, **College of Education has made available and [has] committed the buildings, classrooms, and facilities currently occupied by**

University Laboratory School . . . Further, we [College of Education] commit to negotiating with the University of Hawai'i Administration for continued long-term use of these facilities."

Thus, when critics of this bill state that "historically" the Ed Lab's buildings, classrooms and facilities have been used by multiple groups, this is simply not true according to then College of Education Dean Randy Hitz. What apparently happened is these critics came to the University of Hawaii from the mainland only recently and **AFTER** Dean Hitz left, and therefore lack institutional knowledge of what occurred previous to their arrival from the mainland. A copy of Dean Hitz's written statement to the BOE Chair is attached hereto as Exhibit "A" and made a part hereof by reference.

Moreover, the critics' statement that the University of Hawaii is currently using the University Lab School's buildings, classrooms and facilities for uses other than the Ed Lab and wishes to continue to use said buildings and facilities however they choose, is a disappointing confession that the University has violated Dean Hitz's promise to the BOE that the University will commit to "the continued long-term use of these facilities" only by the Ed Lab.

What is even more disingenuous and dastardly is that in spite of the fact that the BOE relied, in good faith, on Dean Hitz's aforesaid promise in granting the Ed Lab Charter School status, the University's Manoa Campus Chancellor feels free to participate in violating with impunity, and without any conscience, Dean Hitz's promise which was detrimentally relied upon by the BOE in granting Charter School status to the Ed Lab.

The foregoing disingenuousness, dastardly and shameful conduct of Chancellor Virginia Hinshaw in participating in the violation Dean Hitz's promise on how the buildings, classrooms and facilities of the University Lab School which existed at the time of Dean Hitz's June 25, 2001 promise, is a compelling reason why this legislation must be enacted.

Regarding the critics' arguments that this bill creates two charter schools, and two local school boards, again this criticism is spawned from the critics' incompetence in reading and interpreting the language of this bill. This bill does not create such duplication.

Rather, those provisions of the bill merely restore order and an abiding of the law to the Ed Lab by removing the violators of the law,¹ and appointing Dr. Loretta Krause, the Ed Lab's former school principal and school principal of the Ed Lab's predecessor, the University Lab School, for a total of approximately 35 years, and first chair of the Ed Lab's Local School Board ("LSB"), to the position of Chair and allowing her to appoint a whole slate of new LSB members, just as she did when she, as one of the other Co-Founders of the Ed Lab, did when the Ed Lab was first created. Attached hereto as Exhibit "B" and made a part hereof is a copy of a document submitted to the BOE which clearly indicates that Dr. Krause was the first Chair of the LSB.

Thank you for this opportunity to present testimony before these honorable committees. I will be happy to answer any questions of the committee members at this time.

CKYK:rwd

Attachments

¹ Perhaps one of the most egregious violations of HRS, Chapter 302B is when the LSB created the position on the LSB for a CRDG member when HRS, § 302B-7 limits the membership of the LSB to individuals other than CRDG members, *see, Williamson v. Haw. Paroling Auth.*, 97 Hawaii 183, 198 (When certain things are specified in a statute, an intention to exclude all other things from coverage thereunder is inferred under law).

UNIVERSITY OF HAWAII AT MĀNOACollege of Education
Office of the Dean

June 25, 2001

MEMORANDUM

TO: Herbert Watanabe
Chair, State of Hawai'i Board of Education
Interim Local Board
The Education Laboratory: A New Century Public Charter School

FROM: Randy Hitz *[Signature]*
Dean, College of Education

SUBJECT: Commitment of Space and Facilities

In support of the application of The Education Laboratory for charter school status, the University of Hawai'i, College of Education has made available and committed the buildings, classrooms, and facilities currently occupied by the University Laboratory School for the 2001-2002 school year. Further, we commit to negotiating with the University of Hawai'i administration for the continued long-term use of these facilities.

The establishment of The Education Laboratory charter school will result from the conversion of an existing school on the University of Hawai'i at Mānoa campus. The facilities have been certified as meeting relevant fire, safety, health, and building codes. Copies of current certifications are available in the University of Hawai'i Facilities Management Office. Inspections and certification are conducted and updated on a regular basis.

cc Watanabe

EXHIBIT "A"

The Education Laboratory:
A Hawai'i New Century Public Charter School

June 29, 2001

Mr. Herbert Watanabe, Chairperson
Hawaii State Board of Education
P.O. Box 2360
Honolulu, HI 96804

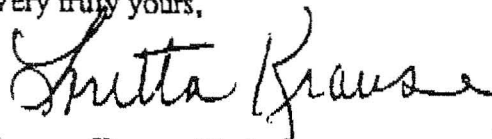
Attention: Charles Higgins
Hawai'i Public Charter School Program

Dear Chairperson Watanabe:

As chair of the interim school board of The Education Laboratory Public Charter School I have been in correspondence and discussions with each of the four collective bargaining units whose members or potential members might be impacted by the conversion of the University Laboratory School to a charter school. Please see the letters from three of the four unions (HSTA, UPW, and UHPA) that are enclosed with the addendum to our application.

We have been holding discussions with the Hawaii Government Employees Association (HGEA) on the matter of five administrators of the University Laboratory School who are presently members of the HGEA. We will continue to work with the HGEA staff until all matters are resolved.

Very truly yours,



Loretta Krause, Chair
Interim School Board
The Education Laboratory Public Charter School

cc: Randy Hitz, Dean
College of Education

EXHIBIT "B"