

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

September 21, 2011

Conference Room 211, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Representative Della Au Belatti, Hawaii House of Representatives  
Liann Ebesugawa on behalf of Don Horner, Board of Education  
Tammi Chun, Office of the Governor  
Robert Campbell, Department of Education (Superintendent of Education's Designee)  
Roger McKeague, Charter School Administrative Office  
Ruth Tschumy, Charter School Review Panel  
Kalei Kailihiwa on behalf of Lisa Okinaga, Kamehameha Schools  
Megan McCorriston, Ho'okako'o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Steve Sullivan, Hawaii Charter Schools Network

**II. Remarks by the National Association of Charter School Authorizers (NACSA)**

NACSA was requested by the Charter School Review Panel (CSRP) to conduct a review of CSRP's policies and procedures as the State's charter school authorizer. In addition, NACSA agreed to assist the Task Force with its goals and objectives.

Greg Richmond, of NACSA presented the organization's findings and recommendations. He will provide a more in depth report to the CSRP on September 22, 2011.

NACSA examined the Hawaii charter system's strength and weakness. NACSA identified Hawaii's number one strength to be the autonomous nature of the system. NACSA went on to report that it believes the number one weakness of Hawaii's charter school system is its failure to focus on improving student outcomes. Specifically, NACSA cited that outcomes are not defined in charter school applications, are not monitored or reported on annually, are not a meaningful component of charter renewal, and are not required by law.

NACSA also made the following recommendations to the Task Force:

Recommendation #1 (Roles and Responsibilities): The Charter School Administration Office (CSAO) should function as the staff to the CSRP, focusing on authorization more than administration.

Recommendation #2 (Multiple Authorizers): NACSA reported that one weakness in current system is a function of poorly defined roles and responsibilities and not the number of charter school authorizers. NACSA recommended that the State first work to improve its current system before allowing for multiple authorizers. The NACSA report contains a timeline for phasing in multiple authorizers.

Recommendation #3 (Authorizer Accountability): NACSA recommended that CSRP do the following to ensure accountability:

- (1) Define universal, specific and measureable expected school outcomes;
- (2) Annually report on school performance;
- (3) Annually report on authorizer's "Index of Basic Practices"; and
- (4) Allow a third party to conduct an evaluation every 3 to 5 years.

NACSA also recommended that the Legislature establish statutory minimum standards for schools that are up for charter renewal.

Recommendation #4 (CSRP Evaluation): NACSA recommended that the State:

- (1) Establish clear, objective and measureable expectations for school performance;
- (2) Streamline (through legislation) and strengthen the charter school application process;
- (3) Execute contracts between CSRP and each charter school;
- (4) Evaluate schools annually and at renewal on outcomes rather than inputs;
- (5) Delay reauthorization actions until performance expectations are established; and
- (6) Allow schools to decide if staff will be state employees.

Recommendation #5 (Charter School Governance): NACSA recommended that a local school board for a charter school must be a highly effective team, strategically assembled, to bring the skills, expertise, temperament and time to govern charter schools. The composition of the local school board should be based on members' skills, expertise, and time, as well as their objectivity. Members should be selected and not elected. In addition the purpose of the local school board is governance and not management or maintaining a representative democracy. Lastly, the local school board should be focusing on student outcomes.

A copy of NACSA's power point presentation and report to the Task Force is available on the Task Force's website.<sup>1</sup>

A representative from the National Governors Association (NGA) was also present to answer questions and provide further guidance to the Task Force.

### **III. Adoption of Minutes**

Mr. Zarro moved that the minutes of the September 9, 2011 Task Force be approved. Ms. Tschumy seconded the motion.

The Task Force unanimously adopted the motion and the minutes were adopted.

### **IV. Follow up Discussion on Working Group #2 Recommendations**

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<sup>1</sup> <http://www.capitol.hawaii.gov/session2011/studies/commCSGTF.asp>

Senator Tokuda provided a recap of the discussions held by Working Group #2 relating to the establishment of a separate local educational agency (LEA) for Charter Schools. Senator Tokuda confirmed that if Hawaii chooses to have more than one LEA, which is the current set up within the State, Hawaii would lose between \$20 million to \$23 million in federal military impact aid. Given that this information was only discovered recently, the Working Group tasked Senator Tokuda with developing a draft "Plan B" as an alternative to establishing a separate LEA for charter schools. A copy of Working Group #2's Plan B, as well as Working Group #2/3's notes are attached hereto.

The draft "Plan B" establishes a Charter School Support Office ("CSSO") within the Office of the Superintendent which shall be responsible for the overall administration of statewide educational policy and development of compliance with state and federal laws as they relate to charter schools. The Director of the CSSO is to serve as the liaison within the Department of Education ("DOE") for the purpose of coordinating charter school involvement and/or required participation in any SEA or LEA applications and proposals for federal grant aids.

Staffing resources currently in the CSAO may be redistributed to the CSRP as authorizer staff and to the new CSSO.

The Task Force discussed various pros and cons associated with Plan B. Ultimately the Task Force agreed that it would continue to work on further refining and fleshing out the roles and responsibilities of the CSSO and CSRP staff in order to ensure that the goals and objectives of the Task Force were met.

**V. Report of Working Group #3: Identify oversight and monitoring responsibilities of the Charter School Review Panel, Charter School Administrative Office, and the local school boards, and develop a process for enforcement**

Working Group #3 was tasked with identifying oversight and monitoring responsibilities of the Charter School Review Panel, Charter School Administrative Office, and the local school boards and to develop a process for enforcement. Working Group #2/3's notes are attached hereto.

Working Group #3 acknowledged that it would first be helpful to see NACSA and NGA's recommendations. In addition, there was extensive discussion on local school boards ("LSBs") and the need to change the constituency-based memberships of LSBs to encompass more generalized qualifications. Training for LSBs was also discussed, as well as a need to clearly delineate the relationship between an authorizer and an LSB. Working Group #3 also discussed how to keep LSBs autonomous while keeping them accountable for student achievement.

**VI. Discussion on Objective #4: Discuss funding-related issues, including but not limited to appropriate funding levels for the Charter School Administrative Office.**

Senator Tokuda recommended that the next working group meeting will be held to

continue the discussions on the draft of Plan B, as well as to continue discussing the oversight responsibilities of charter school stakeholders. If time allows, the working group may discuss issues related to funding.

The working group meeting will be held on Thursday, September 29, 2011 in room 211.

## **VII. Adjournment**

The meeting was adjourned. The next Task Force meeting is scheduled for October 12, 2011 at 10:00 a.m. at the Capitol in conference room 225.

DRAFT

**Charter School Governance, Accountability & Authority Task Force**  
**Working Groups 2/3**  
**September 21, 2011**

*Objective #2: Identify how the governance structure connects and relates to the State Education Agency (SEA) and Local Education Agency (LEA).*

Follow Up as Determined By Task Force:

- Discussion and comparison of governance models to include a Charter School LEA, a Charter School Complex Area, and a hybrid Complex Area/LEA.
- Evaluate each of the possible models on the basis of potential opportunities, responsibilities and liabilities; and as it relates to the three overarching themes identified in earlier working group discussions.

**Working Group #2 Notes**

**Overarching Themes and the CAS/LEA discussion (R. Campbell)**

**1) Need for transparency and access to discretionary and formula driven federal funds.**

**PCS LEA**

The PCS LEA structure would make transparent the amount of federal funds, by program or grant, held at the SEA level. The allocation of funds from the SEA to all LEAs (including a PCS LEA) is either set by regulation or must be done in consultation with the LEAs.

In the case of formula driven federal funds the amount is set by regulation.

In the case of discretionary funds the funds go directly to SEA for specific things in the grant application. There are no deviations. The grant application can be made public.

Each LEA then distributes funds to schools based on a plan submitted to the SEA. Thus the rationale leading to any particular school's funding level is public.

In the case of discretionary funds the funds go directly to LEA for specific things in the grant application. There are no deviations. The grant application can be made public.

**PCS CAS**

The determination regarding the use of formula funds is made at the federal program manager level in consultation with the Assistant Superintendent. The determination regarding the distribution of the LEA funds is shared with the CAS. In some cases, Title

II, Part A most notable, there was discussion regarding various options for distributing the funds. The most likely scenario though is that the CAS is informed of the distribution methodology.

In the case of discretionary funds, the CAS is informed of the award of the grant and complex or school ramifications.

**Conclusion**

Clearly defining the use of either structure would improve the transparency of and access to federal funds that are currently available.

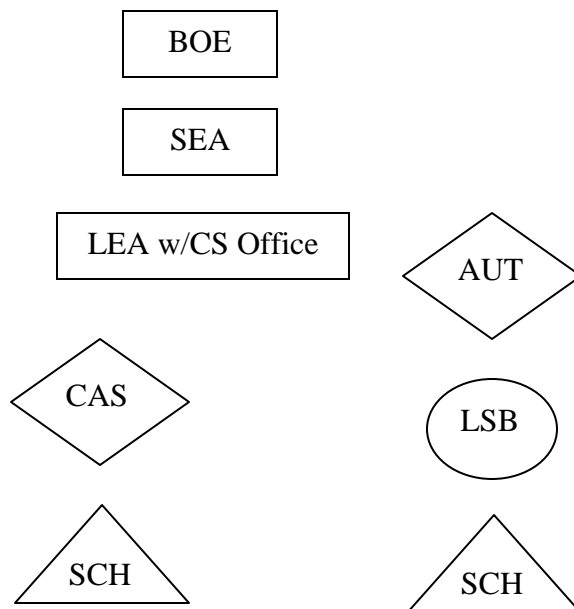
**Working Group #2 Conclusions**

While the initial conclusion of the working group was to continue to support and further delineate governance authorities under a Charter School LEA model, information was presented to the group that required a change in direction.

It has been brought to our attention that provisions within the federal impact aid regulations grant additional financial benefits to single LEA states like Hawaii. The estimated loss in impact aid funds should Hawaii become a multiple LEA state ranges between \$21-23 million annually. A loss of this magnitude would have a financial impact on ALL public schools.

Understanding the difficult fiscal realities this would pose, the group agreed to consider an LEA-like model that would best seek to address the 3 overarching themes identified without creating a unique LEA for charter schools.

Initial Model Considered By the Group:



For the purposes of presenting a working model to the task force, the group agreed to allow the Co-Chair to confer with Superintendent Matayoshi and other knowledgeable parties including NACSA and NGA in putting together a possible structure.

*See attached diagram & explanation: Attachment A*

### **Working Group #3 Notes**

The working group examined the functions, oversight and monitoring responsibilities, and current statutory authority for the following entities: CSRP (authorizer), CSAO, LEA, LSB, SEA & BOE.

*See attached table for analysis: Attachment B*

### **Working Group #3 Conclusions**

While the working group did clarify specific oversight and monitoring responsibilities for the CSRP & CSAO, there was a strong acknowledgement that we would like to see the recommendations being made by NACSA and seek input from NGA on this area.

There was extensive discussion on the area of Local School Boards (LSB) and a desire to change the constituency-based makeup of the LSB to encompass more generalized desired qualifications. There was also a strong desire to consider training requirements for LSB members, and a need to be clearly delineate relationship between an authorizer and the LSB, whether it be for federal compliance purposes or as it relates to their charter contract. Need to ensure that this would not be contradicted by “autonomous” language referenced in 302B-7.

### **2) Need for elevated status for charter schools when it comes to federal grant applications and proposals or decisions regarding the use of federal funds.**

#### **PCS LEA**

The SEA is required to consult with LEAs. Evidence of consultation is generally one of those things that the USDOE looks for when monitoring programs.

NOTE: It is only consultation and the LEAs do not have decision making authority.

Any LEA choosing to participate in an SEA discretionary grant would have that decision making authority.

#### **CAS LEA**

Historically there has been little or no CAS input and complex area superintendent or school level agreement is not a requirement for either the SEA or LEA.

## **Conclusion**

The LEA status would provide a cleaner structure for charter school participation in decision making related to formula and discretionary grants.

### **3) Access to federal grant opportunities limited in having only 1 LEA.**

I am not aware of any grants as were described. However, at the moment any grant in which an LEA is eligible to apply must go through the Department. To the extent that the Department has capacity, the grant may or may not be a priority.

### **Other thoughts:**

#### **PCS LEA**

##### Responsibilities

It would require

- Agreement from PCSs on the level of representation and participation.
- Commitment of an individual to be available and knowledgeable regarding related PCS activities (i.e., what are the PCSs doing now? A CAS is expected to know the answer.)
- The Department would need to create a more formal structure for the planning and use of federal funds.

##### Liabilities

This would change the relationship of PCSs within the HDOE.

It would require an identified entity to serve as the conduit of information and resources from HDOE to the PCS and reporting data from the PCS to HDOE.

##### Possible misperceptions

There seems to be a perception that there is a need for a vast amount of resources needed to meet LEA responsibilities. I believe it is likely based on the fact that the only immediate reference is the HDOE in which current staffing addresses both SEA and LEA responsibilities in a particular manner.

There are single school districts on the mainland that will meet LEA responsibilities. The amount of resources needed by an LEA entity is dependent upon a number of things which include: (a) the degree to which they chose to operate differently than other LEAs, (b) the extent to which they do not rely on SEA technical assistance, or (c) the degree to which they chose to operate independent from other LEAs.

#### **PCS CAS**

##### Responsibilities

It would require



- Agreement from PCSs on the level of representation and participation
- Commitment of an individual to be available and knowledgeable regarding related PCS activities (i.e., what are the PCSs doing now? A CAS is expected to know the answer.)
- The Department would need to change the way in which topics for Leadership Team meetings are held and the agenda generation as these meetings are a combination of internal messaging, leadership development, and DOE operational decisions.

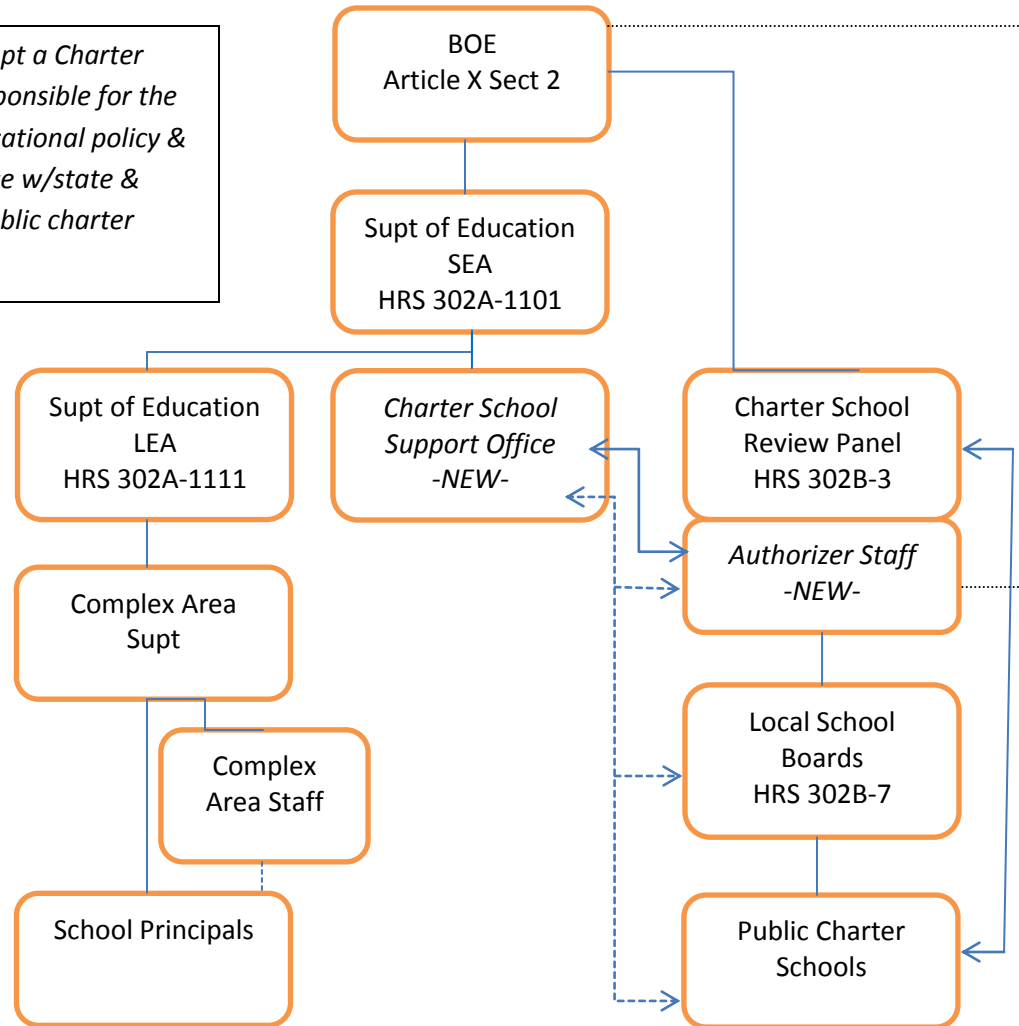
#### Possible Misperceptions

I get the feeling that non-attendees at Leadership Team meetings think that it is a problem-solving, solution-generating, and decision-making forum whereby the 22 HDOE leaders jointly discuss issues and make decisions regarding federal programs. That is not the case. With the possible exception of Title II, Part A funds this group is merely told by OCISS Program Manager of the decisions that have been made regarding the funds. This is consistent with federal regs as the CAS is the head of an administrative subunit and the regs only address required collaboration with external groups.

### Working Group #2 Plan B - DRAFT 1

*There shall be within the Office of the Supt a Charter School Support Office which shall be responsible for the overall administration of statewide educational policy & development of standards for compliance w/state & federal laws as they are applicable to public charter schools (HRS302A-1102)*

*The Director of the Charter School Support Office shall serve as the liaison within the DOE for the purpose of coordinating PCS involvement and/or required participation in any SEA or LEA applications & proposals for federal grant funds.*



*Staffing resources currently in the CSAO to be redistributed to the CSRP as authorizer staff & to the newly created Support Office. Personnel management for Support Office under the jurisdiction of the Office of the Supt. Authorizer Staff Office will be administratively attached to the BOE.*

**Guiding Principles:** 1) Staffing resources distributed on the basis of function w/need for clearly defined authority; 2) Elevated status & ability for more consultation & interaction at the SEA & LEA level through creation of office; 3) More direct distribution of funds through elimination of CAS layer for PCS's.

*Technical Assistance & Consultation to be provided by the Charter School Support Office.*

Working Group #3

Looking at oversight, monitoring, CSR, LSB, CSAO etc.

Organization	Function	Oversight/Monitors Whom	Current HRS Authority?
CSR – Authorizer	<p>-Dictated in statute change (Model Law), including but not limited to specific responsibilities detailed in charter contract</p> <p><i>-Get NACSA recommendations</i></p>	<p>-Charter Schools they have authorized;</p> <p>-Until another authorizer comes on board, ALL CS's fall under CSR's purview.</p> <p><i>-How does the authorizer hold LSBs accountable?</i></p>	<p>-Powers and Duties Currently in 302B-3.</p> <p>-Generally panel establishes operating procedures, including conflict of interest procedures;</p> <p>-Specific duties are listed in 302B-3(i)</p> <p>-Under 302B-14, Panel is responsible for conducting multi-year evals of CS's, placing CS's on probationary status, revocation of charter</p> <p><i>Note:</i>  <i>302B-3 will likely be repealed or amended to incorporate Model Law/NACSA recommendations.</i>  <i>302B-14, (b) through (i) will be amended to reflect the language in Section VII(3) of the Model Law (Renewals, Revocations, and Non-Renewals)</i></p>
CSAO	<p><i>-Roger to do homework re: functions</i></p> <p><i>-Get NACSA recommendations</i></p>		<p>-302B-8 (as amended by Act 130, SLH 2011) makes CSAO responsible for internal organization, operation, and management of CS system; including, but not limited to:</p> <ul style="list-style-type: none"> <li>-Preparing budget, CIP requests for CS's;</li> <li>-Allocating appropriations to CS's and distribution of federal funds to CS;</li> <li>-Preparing contracts between CS and DOE;</li> <li>-Providing advocacy, support, assistance to CS's</li> <li>-Assisting CSR</li> <li>-Assisting CS with collective bargaining</li> <li>-Ensure that local school boards are fulfilling their oversight responsibilities pursuant to section</li> </ul>

			302B-7 (Act 130)
LEA	<ul style="list-style-type: none"> <li>-Serves as public authority with administrative control for charters as it relates to distribution of federal and title funds (see draft statute change definition of LEA)</li> <li>-<i>Work in progress, need to flesh out of what is an LEA Bob homework.</i></li> <li>-Seek out and apply for/comply with federal funding opportunities</li> </ul>	<ul style="list-style-type: none"> <li>-LEA ensures compliance with all federal reporting requirements</li> <li>-LEA works with Authorizers to ensure all schools are complying</li> <li>-Works with LSB and/or Authorizer on corrective action plans for schools that are in trouble</li> </ul>	<ul style="list-style-type: none"> <li>-Not in HRS; Language will need to be crafted</li> </ul>
LSB	<ul style="list-style-type: none"> <li>-Autonomous governing body of the school</li> <li>-Ensure compliance with laws and regulations</li> <li>-Negotiates supplemental collective bargaining agreements</li> </ul>	<ul style="list-style-type: none"> <li>-Oversee all aspects of a schools organizations-finance, academic, personnel, adherence to charter/performance contract</li> <li>-Collective bargaining</li> <li>-Change makeup requirements of LSB, based on best practices and flexibilities.</li> <li>-Training component added to HRS/HAR LSB's</li> <li>-Add in compliance with their performance contract</li> <li>-Add in specific section delineating relationship between authorizer and LSB (federal compliance, charter contract, etc).</li> </ul>	<ul style="list-style-type: none"> <li>Powers and duties found in 302B-7, as amended by Act 130, SLH 2001, includes but is not limited to the following:</li> <li>-LSB are autonomous governing body of its CS and shall have oversight (Act 130) and responsibility for financial an academic viability of CS</li> <li>-Determines organization, management of school, curriculum, virtual education, compliance with state and federal laws, developing internal policies for procurement of goods and services, make LSB agendas and minutes available;</li> <li>-Develop internal procedures to ensure policies and procedures meet chapter 84 ethics requirements (Act 130)</li> </ul>
SEA	<ul style="list-style-type: none"> <li>-Administers all federal education programs in the State</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring and general supervision over LEAs.</li> </ul>	<ul style="list-style-type: none"> <li>26-12 lays out general duty of DOE (Sup't) as administrating education and public instruction</li> </ul>

	<p>-Provides technical assistance, general supervision, disbursement of funds, monitoring tech assistance, reports to Washington on all required data</p> <p>-Work in progress</p>		<p>throughout the State</p> <p>Role of DOE in CS's as laid out in chapter 302B is limited to 302B-15 re: SPED</p> <p>Authority for the SEA functions as they currently stand may be in federal law.</p> <p>Will likely have to craft new HRS language specifically to deal with the roles and responsibilities of the SEA in relation to a CS LEA.</p>
<p>BOE (as it relates to CS)</p>	<p>-Formulates statewide educational policy</p> <p>-Statewide Authorizer Oversight body; (authorizer of authorizers)(Model Law)</p> <p>-Appellate body</p>	<p>-BOE oversees all authorizers</p> <p>-Final arbitrator on decisions</p>	<p>302B-3.5 – BOE has power to decide appeals from the decision of CSR to deny/revoke charter or deny amendment to DIP</p> <p><i>Note: Model Law language to be incorporated re: BOE's role as to Authorizers.</i></p>