
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 the charter school
2 governance, accountability, and authority task force ("task
3 force") was established pursuant to section 7 of Act 130,
4 Session Laws of Hawaii 2011 in response to questions and
5 concerns raised by policy makers and advocates alike about the
6 integrity of Hawaii's charter school governance structure and
7 the overall strength of Hawaii's laws in establishing clear
8 lines of authority that ensured accountability of the charter
9 school system.

10 Specifically, the goal of the task force was to provide
11 clarity to the relationships, responsibilities, and lines of
12 accountability and authority among stakeholders of Hawaii's
13 charter school system, including the board of education,
14 department of education, charter school administrative office,
15 charter school review panel, and local school boards.

16 In conducting its work, the task force looked at various
17 sections of the charter school model law put forth by the
18 National Alliance for Public Charter Schools and used the model



1 law as a guide in compiling its recommendations to the
2 legislature.

3 The task force was also fortunate to have the assistance
4 and input of the National Association of Charter School
5 Authorizers and the National Governors Association.

6 After in-depth examination and discussion, the task force
7 concluded its work and issued its report and recommendations to
8 the legislature.

9 The purpose of this Act is to adopt the recommendations of
10 the task force by repealing chapter 302B, Hawaii Revised
11 Statutes, and establishing a new charter school law that creates
12 a solid governance structure for Hawaii's charter school system
13 with clear lines of authority and accountability that will
14 foster improved student outcomes.

15 The legislature finds that this Act will support new
16 approaches to education that accommodate the individual needs of
17 students and provide the State with successful templates that
18 can dramatically improve Hawaii's educational standards for the
19 twenty-first century. This Act will create genuine
20 opportunities for communities to implement innovative models of
21 community-based education.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 PUBLIC CHARTER SCHOOLS

6 § -1 **Definitions.** Whenever used in this chapter, unless
7 the context otherwise requires:

8 "Application" means a proposal from an applicant to an
9 authorizer to enter into a charter contract whereby the proposed
10 school obtains public charter school status.

11 "Authorizer" means an entity authorized under this chapter
12 to review applications, decide whether to approve or reject
13 charter applications, enter into charter contracts with
14 applicants, oversee public charter schools, and decide whether
15 to authorize, reauthorize, or reject charter contracts. The
16 term may include the commission when appropriate.

17 "Board" means the board of education.

18 "Charter contract" means a fixed-term, bilateral, renewable
19 contract between a public charter school and an authorizer that
20 outlines the roles, powers, responsibilities, and performance
21 expectations for each party to the contract.



1 "Charter school" or "public charter school" refers to those
2 public schools and their respective governing boards, as defined
3 in this section, that are holding charters to operate as charter
4 schools under this chapter, including start-up and conversion
5 charter schools, and that have the flexibility and independent
6 authority to implement alternative frameworks with regard to
7 curriculum, facilities management, instructional approach,
8 virtual education, length of the school day, week, or year, and
9 personnel management.

10 "Commission" means the state public charter school
11 commission established pursuant to -3 as a statewide
12 authorizer.

13 "Conversion charter school" means:

- 14 (1) Any existing department school that converts to a
15 charter school and is managed and operated in
16 accordance with section -14;
- 17 (2) Any existing department school that converts to a
18 charter school and is managed and operated by a
19 nonprofit organization in accordance with
20 section -14; or
- 21 (3) A newly created school consisting of programs or
22 sections of existing public school populations that



1 are funded and governed independently and may include
2 part of a separate Hawaiian language immersion program
3 using existing public school facilities.

4 "Department" means the department of education.

5 "Executive director" means the executive director of the
6 state public charter school commission.

7 "Governing board" means the independent board of a public
8 charter school that is party to the charter contract with the
9 authorizer that:

- 10 (1) Is responsible for the financial, organizational, and
11 academic viability of the charter school and
12 implementation of the charter;
- 13 (2) Possesses the independent authority to determine the
14 organization and management of the school, the
15 curriculum, and virtual education;
- 16 (3) Has the power to negotiate supplemental collective
17 bargaining agreements with exclusive representatives
18 of their employees; and
- 19 (4) Ensures compliance with applicable state and federal
20 laws.

21 "Nonprofit organization" means a private, nonprofit,
22 tax-exempt entity that:



- 1 (1) Is recognized as a tax-exempt organization under
2 section 501(c)(3) of the Internal Revenue Code; and
3 (2) Is domiciled in this State.
- 4 "Organizational viability" means that a charter school:
- 5 (1) Has been duly constituted in accordance with its
6 charter;
- 7 (2) Has a governing board established in accordance with
8 law and the charter school's charter;
- 9 (3) Employs sufficient faculty and staff to provide the
10 necessary educational program and support services to
11 operate the facility in accordance with its charter;
- 12 (4) Maintains accurate and comprehensive records regarding
13 students and employees as determined by its
14 authorizer;
- 15 (5) Meets appropriate standards of student achievement;
- 16 (6) Cooperates with board, commission, and authorizer
17 requirements in conducting its functions;
- 18 (7) Complies with applicable federal, state, and county
19 laws and requirements;
- 20 (8) In accordance with authorizer guidelines and
21 procedures, is financially sound and fiscally
22 responsible in its use of public funds, maintains



1 accurate and comprehensive financial records, operates
2 in accordance with generally accepted accounting
3 practices, and maintains a sound financial plan;

4 (9) Operates within the scope of its charter and fulfills
5 obligations and commitments of its charter;

6 (10) Complies with all health and safety laws and
7 requirements; and

8 (11) Complies with all commission and authorizer
9 directives, policies, and procedures.

10 "Start-up charter school" means a new school established
11 under section -13.

12 § -2 **Existing charter schools.** (a) Any charter school
13 holding a charter to operate under part IV, subpart D, of
14 chapter 302A, as that subpart existed before July 11, 2006,
15 shall be considered a charter school for the purposes of this
16 chapter.

17 (b) Any charter school holding a charter to operate under
18 chapter 302B as it existed before July 1, 2013, shall be
19 considered a charter school for the purposes of this chapter.

20 § -3 **State public charter school commission;**
21 **establishment; appointment.** (a) There is established the state
22 public charter school commission with statewide chartering



1 jurisdiction and authority. The commission shall be placed
2 within the department for administrative purposes only.
3 Notwithstanding section -25 and any law to the contrary, the
4 commission shall be subject to chapter 92.

5 (b) The mission of the commission shall be to authorize
6 high-quality public charter schools throughout the State.

7 (c) The commission shall consist of nine members to be
8 appointed by the board. The board shall appoint members who
9 will be tasked with authorizing public charter schools that
10 serve the unique and diverse needs of public school students.
11 The chair of the commission shall be designated by the members
12 of the commission for each school year beginning July 1, and
13 whenever there is a vacancy. The board shall consider the
14 combination of abilities, breadth of experiences, and
15 characteristics of the commission, including but not limited to
16 reflecting the diversity of the student population, geographical
17 representation, and a broad representation of education-related
18 stakeholders.

19 (d) Understanding that the role of the commission is to
20 ensure a long-term strategic vision for Hawaii's public charter
21 schools, each nominee to the commission shall meet the following
22 minimum qualifications:



- 1 (1) Commitment to education. Each nominee's record should
2 demonstrate a deep and abiding interest in education,
3 and a dedication to the social, academic, and
4 character development of young people through the
5 administration of a high performing charter school
6 system;
- 7 (2) Record of integrity, civic virtue, and high ethical
8 standards. Each nominee shall demonstrate integrity,
9 civic virtue, and high ethical standards and be
10 willing to hold fellow commission members to the same;
- 11 (3) Availability for constructive engagement. Each
12 nominee shall commit to being a conscientious and
13 attentive commission member; and
- 14 (4) Knowledge of best practices. Each nominee shall have
15 an understanding of best practices in charter school
16 educational governance or shall be willing to be
17 trained in such.
- 18 (e) Each nominee to the commission shall ideally meet the
19 following recommended qualifications:
- 20 (1) Experience governing complex organizations. Each
21 nominee should possess experience with complex
22 organizations, including but not limited to



1 performance contract management, and a proven ability
2 to function productively within them; and

3 (2) Collaborative leadership ability. Each nominee should
4 have substantial leadership experience that ideally
5 illustrates the nominee's ability to function among
6 diverse colleagues as an effective team member, with
7 the ability to articulate, understand, and help shape
8 consensus surrounding commission policies.

9 (f) Five members of the commission shall constitute a
10 quorum to conduct business and a concurrence of at least five
11 members shall be necessary to make any action of the commission
12 valid.

13 (g) Commission members shall serve not more than three
14 consecutive three-year terms, with each term beginning on
15 July 1; provided that the initial terms that commence after
16 June 30, 2012, shall be staggered as follows:

17 (1) Three members, including the chairperson, to serve
18 three-year terms;

19 (2) Three members to serve two-year terms; and

20 (3) Three members to serve one-year terms.

21 (h) Commission members shall receive no compensation.

22 When commission duties require that a commission member take



1 leave of the member's duties as a state employee, the
2 appropriate state department shall allow the commission member
3 to be placed on administrative leave with pay and shall provide
4 substitutes, when necessary, to fulfill that member's duties.

5 Members shall be reimbursed for necessary travel expenses
6 incurred in the conduct of official commission business.

7 (i) The commission shall establish operating procedures
8 that shall include conflict of interest procedures for any
9 member whose school of employment or governing board is before
10 the commission.

11 (j) The commission shall operate with dedicated resources
12 and staff qualified to execute the day-to-day responsibilities
13 of the commission pursuant to this chapter.

14 **§ -4 Chartering authority application for eligible**

15 **entities.** (a) The board shall establish, through
16 administrative rules, the annual application and approval
17 process for all entities eligible to apply for chartering
18 authority pursuant to this section. Following the adoption of
19 administrative rules, by June 30 of each year, the board shall
20 make available information and guidelines for all eligible
21 entities concerning the opportunity to apply for chartering
22 authority under this chapter. The application process shall



1 require each interested eligible entity to submit an application
2 that clearly explains or presents the following elements:

3 (1) Written notification of intent to serve as a charter
4 authorizer in accordance with this chapter;

5 (2) The applicant entity's strategic vision for
6 chartering;

7 (3) A plan to support the vision presented, including
8 explanation and evidence of the applicant entity's
9 budget and personnel capacity and commitment to
10 execute the responsibilities of quality charter
11 authorizing, in accordance with this chapter;

12 (4) A draft or preliminary outline of the request for
13 proposals that the applicant entity, if approved as a
14 charter authorizer, would issue to solicit public
15 charter school applicants;

16 (5) A draft of the performance framework that the
17 applicant entity, if approved as a charter authorizer,
18 would use to guide the establishment of a charter
19 contract and for ongoing oversight and evaluation of
20 public charter schools, consistent with the
21 requirements of this chapter;



1 (6) A draft of the applicant entity's renewal, revocation,
2 and non-renewal processes, consistent with section
3 -18;

4 (7) A statement of assurance that the applicant entity
5 seeks to serve as a charter authorizer in fulfillment
6 of the expectations, spirit, and intent of this
7 chapter, and that if approved as a charter authorizer,
8 the entity will fully participate in any authorizer
9 training provided or required by the State; and

10 (8) A statement of assurance that the applicant will
11 ensure public accountability and transparency in all
12 matters concerning its charter-authorizing practices,
13 decisions, and expenditures.

14 (b) By June 30 of each year, the board shall decide
15 whether to grant or deny chartering authority to each applicant.
16 The board shall make its decisions on the merits of each
17 applicant's proposal and plans.

18 (c) Within days of the board's decision, the board
19 shall execute a renewable authorizing contract with each entity
20 it has approved for chartering authority. The initial term of
21 each authorizing contract shall be six years. The authorizing
22 contract shall specify each approved entity's agreement to serve



1 as a charter authorizer in accordance with the expectations of
2 this chapter, and shall specify additional performance terms
3 based on the applicant's proposal and plan for chartering. No
4 approved entity shall commence charter authorizing without an
5 authorizing contract in effect.

6 (d) This section shall not apply to the commission.

7 § -5 **Authorizer powers, duties, and liabilities.** (a)

8 Authorizers are responsible for executing the following
9 essential powers and duties:

- 10 (1) Soliciting and evaluating charter applications;
- 11 (2) Approving quality charter applications that meet
12 identified educational needs and promote a diversity
13 of educational choices;
- 14 (3) Declining to approve weak or inadequate charter
15 applications;
- 16 (4) Negotiating and executing sound charter contracts with
17 each approved public charter school;
- 18 (5) Monitoring, in accordance with charter contract terms,
19 the performance and legal compliance of public charter
20 schools; and
- 21 (6) Determining whether each charter contract merits
22 renewal, nonrenewal, or revocation.



- 1 (b) An authorizer shall:
- 2 (1) Act as the point of contact between the department and
- 3 a public charter school it authorizes and be
- 4 responsible for the administration of all applicable
- 5 state and federal laws;
- 6 (2) Be responsible for and ensure compliance of a charter
- 7 school it authorizes with all applicable state and
- 8 federal laws, including reporting requirements;
- 9 (3) Be responsible for the receipt of applicable federal
- 10 funds from the department and the distribution of
- 11 funds to the public charter school it authorizes; and
- 12 (4) Be responsible for the receipt of per-pupil funding
- 13 from the department of budget and finance and
- 14 distribution of the funding to the public charter
- 15 school it authorizes.

16 (c) An authorizing entity may delegate its duties to

17 officers, employees, and contractors.

18 (d) Regulation by authorizers shall be limited to the

19 powers and duties set forth in this section, and shall be

20 consistent with the spirit and intent of this chapter.

21 (e) An authorizing entity, members of the board of an

22 authorizer acting in their official capacity, and employees or



1 agents of an authorizer are immune from civil and criminal
2 liability with respect to all activities related to a public
3 charter school authorized by that entity.

4 (f) An authorizer shall not provide technical support to a
5 charter school it authorizes in cases where the technical
6 support will impact any authorizer decision related to the
7 authorization, renewal, revocation, or nonrenewal of the charter
8 school.

9 § -6 Principles and standards for charter authorizing.

10 All authorizers shall be required to develop and maintain
11 chartering policies and practices consistent with nationally
12 recognized principles and standards for quality charter
13 authorizing in all major areas of authorizing responsibility
14 including:

- 15 (1) Organizational capacity and infrastructure;
16 (2) Soliciting and evaluating charter applications;
17 (3) Performance contracting;
18 (4) Ongoing public charter school oversight and
19 evaluation; and
20 (5) Charter renewal decision-making.

21 Authorizers shall carry out all their duties under this
22 chapter in a manner consistent with nationally recognized



1 principles and standards and with the spirit and intent of this
2 chapter. Evidence of material or persistent failure to do so
3 shall constitute grounds for losing charter authorizing powers.

4 **§ -7 Authorizer reporting.** Every authorizer shall be
5 required to submit to the board and the legislature an annual
6 report summarizing:

7 (1) The authorizer's strategic vision for chartering and
8 progress toward achieving that vision;

9 (2) The academic and financial performance of all
10 operating public charter schools overseen by the
11 authorizer, according to the performance expectations
12 for public charter schools set forth in this chapter;

13 (3) The status of the authorizer's public charter school
14 portfolio, identifying all public charter schools in
15 each of the following categories: approved (but not
16 yet open), not approved, operating, renewed,
17 transferred, revoked, not renewed, voluntarily closed,
18 or never opened;

19 (4) The authorizing functions provided by the authorizer
20 to the public charter schools under its purview,
21 including the authorizer's operating costs and
22 expenses detailed in annual audited financial



- 1 statements that conform with generally accepted
2 accounting principles;
- 3 (5) The services purchased from the authorizer by the
4 public charter schools under its purview, including an
5 itemized accounting of the actual costs of these
6 services, as required in section -10;
- 7 (6) A line-item breakdown of the federal funds received by
8 the department and distributed by the authorizer to
9 public charter schools under its control; and
- 10 (7) Any concerns regarding equity and recommendations to
11 improve access to and distribution of federal funds to
12 public charter schools.

13 § -8 **Conflict of interests.** No employee, trustee,
14 agent, or representative of an authorizer may simultaneously
15 serve as an employee, trustee, agent, representative, vendor, or
16 contractor of a public charter school authorized by that
17 authorizer.

18 § -9 **Exclusivity of authorizing functions and rights.**
19 No governmental or other entity, other than those expressly
20 granted chartering authority as set forth in this chapter, may
21 assume any charter authorizing function or duty in any form,
22 unless expressly allowed by law.



1 § -10 **Services purchased from authorizer; itemized**

2 **accounting.** (a) No public charter school shall be required to
3 purchase services from its authorizer as a condition of charter
4 approval or renewal or of executing a charter contract, nor may
5 any such condition be implied.

6 (b) A public charter school may, at its discretion, choose
7 to purchase services from its authorizer. In such event, the
8 public charter school and authorizer shall execute an annual
9 service contract, separate from the charter contract, stating
10 the parties' mutual agreement concerning any services to be
11 provided by the authorizer and any service fees to be charged to
12 the public charter school. An authorizer may not charge more
13 than market rates for services provided to a public charter
14 school.

15 (c) Within days after the end of each fiscal year,
16 each authorizer shall provide to each public charter school it
17 oversees an itemized accounting of the actual costs of services
18 purchased by the public charter school from the authorizer. Any
19 difference between the amount initially charged to the public
20 charter school and the actual cost shall be reconciled and paid
21 to the owed party. If either party disputes the itemized
22 accounting, any charges included in the accounting, or charges



1 to either party, the disputing party is entitled to request a
2 third-party review at its own expense. The review shall be
3 conducted by the board whose determination shall be final.

4 § -11 Oversight of public charter school authorizers.

5 (a) The board shall be responsible for overseeing the
6 performance and effectiveness of all authorizers established
7 under this chapter.

8 (b) In accordance with section -7, every authorizer
9 shall submit to the board and the legislature an annual report.
10 The board shall, by of each year, communicate to every
11 authorizer the requirements for the format, content, and
12 submission of the annual report.

13 (c) Persistently unsatisfactory performance of an
14 authorizer's portfolio of public charter schools, a pattern of
15 well-founded complaints about the authorizer or its public
16 charter schools, or other objective circumstances may trigger a
17 special review by the board. In reviewing or evaluating the
18 performance of authorizers the board shall apply nationally
19 recognized principles and standards for quality charter
20 authorizing. If at any time the board finds that an authorizer
21 is not in compliance with an existing charter contract, its
22 authorizing contract with the board, or the requirements of all



1 authorizers under this chapter, the board shall notify the
2 authorizer in writing of the identified problems, and the
3 authorizer shall have reasonable opportunity to respond to and
4 remedy the problems.

5 (d) If an authorizer persists, after due notice from the
6 board, in violating a material provision of a charter contract
7 or its authorizing contract with the board, or fails to remedy
8 other identified authorizing problems, the board shall notify
9 the authorizer, within a reasonable amount of time under the
10 circumstances, that it intends to revoke the authorizer's
11 chartering authority unless the authorizer demonstrates a timely
12 and satisfactory remedy for the violation or deficiencies.

13 (e) In the event of revocation of any authorizer's
14 chartering authority, the board shall manage the timely and
15 orderly transfer of each charter contract held by that
16 authorizer to another authorizer in the State, with the mutual
17 agreement of each affected public charter school and proposed
18 new authorizer. The new authorizer shall assume the existing
19 charter contract for the remainder of the charter term.

20 § -12 **Charter school governing boards; powers and**
21 **duties.** (a) No more than thirty per cent of the members of a
22 governing board shall be employees of a school or relatives of



1 employees of a school under the jurisdiction of that governing
2 board; provided that the chief executive officer, chief
3 administrative officer, executive director, or otherwise
4 designated head of a charter school may serve as an ex officio,
5 non-voting member of the governing board. In selecting members,
6 consideration shall be given to persons who:

- 7 (1) Demonstrate an understanding of best practices of non-
8 profit governance;
- 9 (2) Possess strong financial management, academic
10 oversight, human resources, and fundraising
11 experience; and
- 12 (3) Provide the governing board with a diversity of
13 perspective and a level of objectivity that accurately
14 represent the interests of the charter school students
15 and the surrounding community.

16 (b) No employee of a charter school or relative of an
17 employee of a charter school may serve as the chair of the
18 governing board of that charter school; provided that an
19 authorizer may grant an exemption from the provisions of this
20 subsection based upon a determination by the authorizer that an
21 exemption is in the best interest of the charter school.



1 (c) The governing board shall be the independent governing
2 body of its charter school and shall have oversight over and be
3 responsible for the financial and academic viability of the
4 charter school, implementation of the charter, and the
5 independent authority to determine the organization and
6 management of the school, the curriculum, virtual education, and
7 compliance with applicable federal and state laws. The
8 governing board shall have the power to negotiate supplemental
9 collective bargaining agreements with the exclusive
10 representatives of their employees.

11 (d) Governing boards shall be exempt from chapter 103D,
12 but shall develop internal policies and procedures for the
13 procurement of goods, services, and construction, consistent
14 with the goals of public accountability and public procurement
15 practices. Governing boards and charter schools are encouraged
16 to use the provisions of chapter 103D wherever possible;
17 provided that the use of one or more provisions of chapter 103D
18 shall not constitute a waiver of the exemption from chapter 103D
19 and shall not subject the charter school to any other provision
20 of chapter 103D.



1 (e) Charter schools and their governing boards shall be
2 exempt from the requirements of chapters 91 and 92. The
3 governing boards shall:

4 (1) Make available the notices and agendas of public
5 meetings:

6 (A) At a publicly accessible area in the governing
7 board's office and the authorizer's office so as
8 to be available for review during regular
9 business hours; and

10 (B) On the governing board's or charter school's
11 internet website, if applicable, and the
12 authorizer's internet website not less than six
13 calendar days prior to the public meeting, unless
14 a waiver is granted by the authorizer or
15 authorizer's designee in the case of an
16 emergency; and

17 (2) Make available the minutes from public meetings on a
18 timely basis and maintain a list of the current names
19 and contact information of the governing board's
20 members and officers:



1 (A) In the governing board's office and the
2 authorizer's office so as to be available for
3 review during regular business hours; and

4 (B) On the governing board's or charter school's
5 internet website, if applicable, and the
6 authorizer's internet website.

7 (f) Charter schools and their governing boards shall
8 develop internal policies and procedures consistent with ethical
9 standards of conduct, pursuant to chapter 84.

10 (g) The State shall afford the governing board of any
11 charter school the same protections as the State affords the
12 board.

13 (h) For purposes of this section, "employees" shall
14 include the chief executive officer, chief administrative
15 officer, executive director, or otherwise designated head of a
16 school.

17 § -13 **Start-up charter schools; establishment.** (a) New
18 start-up charter schools may be established pursuant to this
19 section.

20 (b) Any community, group of teachers, group of teachers
21 and administrators, or nonprofit organization may submit a
22 letter of intent to an authorizer to form a charter school,



1 establish a governing board as its governing body, and develop
2 an application pursuant to subsection (d).

3 (c) The start-up charter school application process and
4 schedule shall be determined by the authorizer, and shall
5 provide for and include the following elements:

6 (1) The submission of a letter of intent to operate a
7 start-up charter school;

8 (2) The timely transmittal of the application form and
9 completion guidelines to the governing board;

10 (3) The timely submission of a completed application to
11 the authorizer;

12 (4) The timely review of the application by the authorizer
13 for completeness, and notification by the authorizer
14 to the governing board that the application is
15 complete;

16 (5) Upon receipt of a completed application, the convening
17 of the commission, if applicable, by the commission
18 chairperson to begin review of the application;

19 (6) Following the submission of an application, issuance
20 of a charter or denial of the application by the
21 authorizer or if submitted to the commission, by
22 majority vote;



1 (7) A provision for a final date by which a decision must
2 be made, upon receipt of a complete application; and

3 (8) A provision that no start-up charter school may begin
4 operation before obtaining authorizer approval of its
5 charter and charter contract.

6 (d) An application to become a start-up charter school
7 shall meet the requirements of this subsection and section

8 -25. The application shall include the following:

9 (1) A description of employee rights and management issues
10 and a framework for addressing those issues that
11 protects the rights of employees;

12 (2) A plan for identifying, recruiting, and retaining
13 highly qualified instructional faculty;

14 (3) A plan for identifying, recruiting, and selecting
15 students that is not exclusive, elitist, or
16 segregationist;

17 (4) The curriculum and instructional framework to be used
18 to achieve student outcomes, including an assessment
19 plan;

20 (5) A plan for the assessment of student, administrative
21 support, and teaching personnel performance that:

22 (A) Recognizes the interests of the general public;



- 1 (B) Incorporates or exceeds the educational content
2 and performance standards developed by the
3 department for the public school system;
- 4 (C) Includes a system of faculty and staff
5 accountability that holds faculty and staff
6 individually and collectively accountable for
7 their performance, and that is at least
8 equivalent to the average system of
9 accountability in public schools throughout the
10 State; and
- 11 (D) Provides for program audits and annual financial
12 audits;
- 13 (6) A governance structure for the charter school that
14 incorporates a conflict of interest policy and a plan
15 for periodic training to carry out the duties of
16 governing board members;
- 17 (7) A description of the constitution of the governing
18 board, terms of governing board members, and the
19 process by which governing board members were
20 selected.
- 21 (8) A financial plan based on the most recent fiscal
22 year's per-pupil charter school allocation that



1 demonstrates the ability to meet the financial
2 obligations of one-time, start-up costs and ongoing
3 costs such as monthly payrolls, faculty recruitment,
4 professional development, and facilities costs; and

5 (9) A facilities plan.

6 (e) Any applicant whose charter application is denied by
7 the authorizer shall not be allowed to amend or resubmit the
8 application to the authorizer during a given cycle, as defined
9 by the authorizer; provided that an applicant shall have the
10 right to appeal the authorizer's denial of its application
11 pursuant to section -15.

12 (f) In reviewing an application for a charter under this
13 section, an authorizer shall take into consideration the
14 constitution of the applicant's governing board, terms of
15 governing board members, and the process by which governing
16 board members were selected.

17 § -14 **Conversion charter schools; establishment.** (a) A
18 conversion charter school may be established pursuant to this
19 section.

20 (b) Any department school, school community council, group
21 of teachers, group of teachers and administrators, or nonprofit
22 organization may submit a letter of intent to an authorizer to



1 convert a department school to a charter school, establish a
2 governing board as its governing body, and develop an
3 application pursuant to subsection (d).

4 (c) The conversion charter school application process and
5 schedule shall be determined by the authorizer, and shall
6 provide for and include the following elements:

7 (1) The submission of a letter of intent to convert to a
8 charter school;

9 (2) The timely transmittal of the application form and
10 completion guidelines to the governing board;

11 (3) The timely submission of a completed application to
12 the authorizer; provided that the application shall
13 include certification and documentation that the
14 application was approved by a majority of the votes
15 cast by existing administrative, support, teaching
16 personnel, and parents of students at the existing
17 department school;

18 (4) The timely review of the application by the authorizer
19 for completeness, and notification by the authorizers
20 to the governing board that the application is
21 complete;



- 1 (5) Upon receipt of a completed application, the convening
2 of the commission, if applicable, by the commission
3 chairperson to begin review of the application;
- 4 (6) Following the submission of an application, issuance
5 of a charter or denial of the application by the
6 authorizer or if submitted to the commission, by
7 majority vote;
- 8 (7) A provision for a final date by which a decision must
9 be made upon receipt of a complete application; and
- 10 (8) A provision that no conversion charter school may
11 begin operation before obtaining authorizer approval
12 of its charter and charter contract.
- 13 (d) An application to become a conversion charter school
14 shall meet the requirements of this subsection and section
- 15 -25. The application shall include the following:
- 16 (1) A description of employee rights and management issues
17 and a framework for addressing those issues that
18 protects the rights of employees;
- 19 (2) A plan for identifying, recruiting, and retaining
20 highly qualified instructional faculty;



- 1 (3) A plan for identifying, recruiting, and selecting
2 students that is not exclusive, elitist, or
3 segregationist;
- 4 (4) The curriculum and instructional framework to be used
5 to achieve student outcomes, including an assessment
6 plan;
- 7 (5) A plan for the assessment of student, administrative
8 support, and teaching personnel performance that:
 - 9 (A) Recognizes the interests of the general public;
 - 10 (B) Incorporates or exceeds the educational content
11 and performance standards developed by the
12 department for the public school system;
 - 13 (C) Includes a system of faculty and staff
14 accountability that holds faculty and staff
15 individually and collectively accountable for
16 their performance, and that is at least
17 equivalent to the average system of
18 accountability in public schools throughout the
19 State; and
 - 20 (D) Provides for program audits and annual financial
21 audits;



- 1 (6) A governance structure for the charter school that
2 incorporates a conflict of interest policy and a plan
3 for periodic training to carry out the duties of
4 governing board members;
- 5 (7) A description of the constitution of the governing
6 board, terms of governing board members, and the
7 process by which governing board members were
8 selected.
- 9 (8) A financial plan based on the most recent fiscal
10 year's per-pupil charter school allocation that
11 demonstrates the ability to meet the financial
12 obligations of one-time, start-up costs and ongoing
13 costs such as monthly payrolls, faculty recruitment,
14 professional development, and facilities costs; and
- 15 (9) A facilities plan.
- 16 (e) A nonprofit organization may submit a letter of intent
17 to an authorizer to convert a department school to a conversion
18 charter school, operate and manage the school, establish a
19 governing board as its governing body, and develop an
20 application pursuant to subsection (d); provided that:
- 21 (1) As the governing body of the conversion charter
22 school, the governing board shall be composed of the



1 board of directors of the nonprofit organization and
2 not representatives of the participant groups
3 specified in section -12. The nonprofit
4 organization may also appoint advisory groups of
5 community representatives for each school managed by
6 the nonprofit organization; provided that these groups
7 shall not have governing authority over the school and
8 shall serve only in an advisory capacity to the
9 nonprofit organization;

10 (2) The application for each conversion charter school to
11 be operated by the nonprofit organization shall be
12 formulated, developed, and submitted by the nonprofit
13 organization, and shall be approved by a majority of
14 the votes cast by existing administrative, support,
15 and teaching personnel, and parents of the students of
16 the existing department school; provided that:

17 (A) This vote shall be considered by the authorizer
18 to be the primary indication of the existing
19 administrative, support, and teaching personnel,
20 and parents' approval to convert to a charter
21 school;



- 1 (B) The balance of stakeholders represented in the
2 vote and the broad support received in support of
3 the conversion shall be a key factor in an
4 authorizer's decision to award a charter; and
- 5 (C) A breakdown of the number of administrative,
6 support, and teacher personnel, and parents that
7 actually participated in the vote shall be
8 provided to the authorizer;
- 9 (3) The board of directors of the nonprofit organization,
10 as the governing body for the conversion charter
11 school that it operates and manages, shall have the
12 same protections that are afforded to the board in its
13 role as the conversion charter school governing body;
- 14 (4) Any conversion charter school that is managed and
15 operated by a nonprofit organization shall be eligible
16 for the same federal and state funding as other public
17 schools; provided that the nonprofit organization
18 makes a minimum annual contribution of \$1 per pupil
19 toward the operation of a conversion charter school
20 for every \$4 per pupil allocated by the department of
21 budget and finance for the operation of the conversion
22 charter school; provided further that in no event



1 shall the nonprofit organization be required to
2 contribute more than the total required contribution
3 per pupil per year. As used in this paragraph, "total
4 required contribution" means:

5 (A) \$1,650 for school years 2011-2012 through 2015-
6 2016; and

7 (B) \$1,815 for school years 2016-2017 through 2020-
8 2021; and

9 (5) If, at any time, the board of directors of the
10 nonprofit organization governing the conversion
11 charter school votes to discontinue its relationship
12 with the charter school, the charter school may submit
13 a revised application to the authorizer to continue as
14 a conversion school without the participation of the
15 nonprofit organization.

16 (f) Any nonprofit organization that seeks to manage or
17 operate a conversion charter school as provided in subsection
18 (e) shall comply with the following at the time of application:

19 (1) Have bylaws or policies that describe the manner in
20 which business is conducted and policies that relate
21 to the management of potential conflict of interest
22 situations;



1 (2) Have experience in the management and operation of
2 public or private schools or, to the extent necessary,
3 agree to obtain appropriate services from another
4 entity or entities possessing such experience;

5 (3) Comply with all applicable federal, state, and county
6 laws, including licensure or accreditation, as
7 applicable; and

8 (4) Comply with any other requirements prescribed by the
9 department to ensure adherence with applicable
10 federal, state, and county laws, and the purposes of
11 this chapter.

12 (g) Any public school or schools, programs, or sections of
13 existing public school populations that are part of a separate
14 Hawaiian language immersion program using existing public school
15 facilities may submit a letter of intent to an authorizer to
16 form a conversion charter school pursuant to this section.

17 (h) In reviewing an application for a charter under this
18 section, an authorizer shall take into consideration the
19 constitution of the applicant's governing board, terms of
20 governing board members, and the process by which governing
21 board members were selected.



1 (i) In the event of a conflict between the provisions in
2 this section and other provisions in this chapter, this section
3 shall control.

4 (j) Any applicant whose charter application is denied by
5 the authorizer shall not be allowed to amend or resubmit the
6 application to the authorizer during a given cycle, as defined
7 by the authorizer, except as provided in subsection (e) (5);
8 provided that an applicant shall have the right to appeal the
9 authorizer's denial of its application pursuant to section
10 -15.

11 **§ -15 Appeals; charter school applications,**
12 **reauthorizations, or revocations.** The board shall have the
13 power to decide appeals of decisions by the commission or an
14 authorizer to deny the approval of a charter school application,
15 deny reauthorization of a charter school, or revoke a charter
16 school's charter. An appeal shall be filed with the board
17 within twenty-one calendar days of the receipt of the
18 notification of denial or revocation. Only a party whose
19 charter school application has been denied, whose
20 reauthorization has been denied, or whose charter has been
21 revoked may initiate an appeal under this section for cause.
22 The board shall review an appeal and issue a final decision



1 within sixty calendar days of the filing of the appeal. The
2 board may adopt applicable rules and procedures pursuant to
3 chapter 91 for implementing the appeals process.

4 § -16 **Performance framework.** (a) The performance
5 provisions within the charter contract shall be based on a
6 performance framework that clearly sets forth the academic and
7 operational performance indicators, measures, and metrics that
8 will guide the authorizer's evaluations of each public charter
9 school. The performance framework shall include indicators,
10 measures, and metrics for, at a minimum:

- 11 (1) Student academic proficiency;
- 12 (2) Student academic growth;
- 13 (3) Achievement gaps in proficiency and growth between
14 major student subgroups;
- 15 (4) Attendance;
- 16 (5) Recurrent enrollment from year to year;
- 17 (6) Postsecondary readiness, as applicable for high
18 schools;
- 19 (7) Financial performance and sustainability; and
- 20 (8) Performance and stewardship, including compliance with
21 all applicable laws, rules, and terms of the charter
22 contract.



1 (b) Annual performance targets shall be set by each public
2 charter school in conjunction with its authorizer, and shall be
3 designed to help each school meet applicable federal, state, and
4 authorizer expectations.

5 (c) The performance framework shall allow the inclusion of
6 additional rigorous, valid, and reliable indicators proposed by
7 a public charter school to augment external evaluations of its
8 performance; provided that the authorizer approves the quality
9 and rigor of such school-proposed indicators, and they are
10 consistent with the purposes of this chapter.

11 (d) The performance framework shall require the
12 disaggregation of all student performance data by major student
13 subgroups, including gender, race, poverty status, special
14 education status, English as a second language status, and
15 gifted and talented status.

16 (e) For each public charter school it oversees, the
17 authorizer shall be responsible for collecting, analyzing, and
18 reporting all data from assessments in accordance with the
19 performance framework.

20 (f) Multiple schools operating under a single charter
21 contract or overseen by a single governing board shall be
22 required to report their performance as separate, individual



1 charter schools, and each charter school shall be held
2 independently accountable for its performance.

3 § -17 **Ongoing oversight and corrective actions.** (a) An
4 authorizer shall continually monitor the performance and legal
5 compliance of the public charter schools it oversees, including
6 collecting and analyzing data to support ongoing evaluation
7 according to the charter contract. Every authorizer shall have
8 the authority to conduct or require oversight activities that
9 enable the authorizer to fulfill its responsibilities under this
10 chapter, including conducting appropriate inquiries and
11 investigations, so long as those activities are consistent with
12 the intent of this chapter and adhere to the terms of the
13 charter contract.

14 (b) Each authorizer shall annually publish and provide, as
15 part of its annual report to the board and the legislature, a
16 performance report for each public charter school it oversees,
17 in accordance with the performance framework set forth in the
18 charter contract and section -16. The authorizer may require
19 each public charter school it oversees to submit an annual
20 report to assist the authorizer in gathering complete
21 information about each school, consistent with the charter
22 contract.



1 (c) In the event that a public charter school's
2 performance or legal compliance appears unsatisfactory, the
3 authorizer shall promptly notify the public charter school of
4 the perceived problem and provide reasonable opportunity for the
5 charter school to remedy the problem, unless the problem
6 warrants revocation in which case the revocation timeframes set
7 forth in section -18 shall apply.

8 (d) Notwithstanding section -18 to the contrary, every
9 authorizer shall have the authority to take appropriate
10 corrective actions or exercise sanctions short of revocation in
11 response to apparent deficiencies in public charter school
12 performance or legal compliance. Such actions or sanctions may
13 include, if warranted, requiring a school to develop and execute
14 a corrective action plan within a specified timeframe.

15 (e) If there is an immediate concern for student or
16 employee health or safety at a charter school, the authorizer,
17 in consultation with the commission, may adopt an interim
18 restructuring plan that may include the appointment of an
19 interim governing board, a governing board chairperson, or a
20 principal to temporarily assume operations of the school;
21 provided that if possible without further jeopardizing the
22 health or safety of students and employees, the charter school's



1 stakeholders and community are first given the opportunity to
2 elect a new governing board which shall appoint a new interim
3 principal.

4 The board shall have the authority to direct the authorizer
5 to take appropriate action to immediately address serious health
6 and safety issues that may exist at a charter school in order to
7 ensure the health and safety of students and employees and
8 mitigate significant liability to the State.

9 § -18 **Renewals, revocations, and nonrenewals.** (a) A
10 charter contract may be renewed for successive five-year terms
11 of duration, although an authorizer may vary the terms based on
12 performance, demonstrated capacities, and particular
13 circumstances of each charter school. An authorizer may grant a
14 renewal of a charter contract with specific conditions for
15 necessary improvements to a charter school.

16 (b) No later than _____, the authorizer shall issue a
17 charter school performance report and charter contract renewal
18 application guidance to any charter school whose charter
19 contract will expire the following year. The performance report
20 shall summarize the charter school's performance record to date,
21 based on the data required by this chapter and the charter
22 contract, and shall provide notice of any weaknesses or concerns



1 perceived by the authorizer concerning the charter school that
2 may jeopardize its position in seeking renewal if not timely
3 rectified. The charter school shall have _____ days to respond
4 to the performance report and submit any corrections or
5 clarifications for the report.

6 (c) The renewal application guidance shall, at a minimum,
7 provide an opportunity for the public charter school to:

- 8 (1) Present additional evidence, beyond the data contained
9 in the performance report, supporting its case for
10 charter renewal;
- 11 (2) Describe improvements undertaken or planned for the
12 school; and
- 13 (3) Detail the charter school's plans for the next charter
14 term.

15 (d) The renewal application guidance shall include or
16 refer explicitly to the criteria that will guide the
17 authorizer's renewal decisions, which shall be based on the
18 charter contract and be consistent with this chapter.

19 (e) No later than _____, the governing board of a
20 charter school seeking renewal shall submit a renewal
21 application to the authorizer pursuant to the renewal guidance
22 issued by the authorizer. The authorizer shall decide whether



1 or not to renew the charter no later than days after the
2 filing of the renewal application.

3 (f) In making charter renewal decisions, every authorizer
4 shall:

5 (1) Ground its decisions in evidence of the school's
6 performance over the term of the charter contract in
7 accordance with the performance framework set forth in
8 the charter contract;

9 (2) Ensure that data used in making the renewal decisions
10 are available to the charter school and the public;
11 and

12 (3) Provide a public report summarizing the evidence and
13 basis for each decision.

14 (g) A charter contract may be revoked at any time or not
15 renewed if the authorizer determines that the charter school did
16 any of the following or otherwise failed to comply with the
17 provisions of this chapter:

18 (1) Committed a material and substantial violation of any
19 of the terms, conditions, standards, or procedures
20 required under this chapter or the charter contract;

21 (2) Failed to meet or make sufficient progress toward
22 performance expectations set forth in the contract;



1 (3) Failed to meet generally accepted standards of fiscal
2 management; or

3 (4) Substantially violated any material provision of law
4 from which the charter school is not exempted.

5 (h) An authorizer shall develop revocation and non-renewal
6 processes that:

7 (1) Provide the charter holders with a timely notification
8 of the prospect of revocation or non-renewal and the
9 reasons for such possible closure;

10 (2) Allow the charter holders a reasonable amount of time
11 in which to prepare a response;

12 (3) Provide the charter holders with an opportunity to
13 submit documents and give testimony challenging the
14 rationale for closure and supporting the continuation
15 of the school at an orderly proceeding held for that
16 purpose;

17 (4) Allow charter holders access to representation by
18 counsel and to call witnesses on their behalf;

19 (5) Permit the recording of proceedings described in
20 paragraph (3); and



1 (6) After a reasonable period for deliberation, require a
2 final determination to be made and conveyed in writing
3 to the charter holders.

4 (i) If an authorizer revokes or does not renew a charter,
5 the authorizer shall clearly state in writing the reasons for
6 the revocation or nonrenewal.

7 (j) Within days of taking action to renew, not
8 renew, or revoke a charter, the authorizer shall report to the
9 board the action taken, and shall simultaneously provide a copy
10 of the report to the charter school. The report shall set forth
11 the action taken and reasons for the decision and assurances as
12 to compliance with all the requirements set forth in this
13 chapter.

14 § -19 **School closure and dissolution.** (a) Prior to any
15 public charter school closure decision, an authorizer shall have
16 developed a public charter school closure protocol to ensure
17 timely notification to parents, orderly transition of students
18 and student records to new schools, and proper disposition of
19 school funds, property, and assets in accordance with the
20 requirements of this chapter. The protocol shall specify tasks,
21 timelines, and responsible parties, including delineating the
22 respective duties of the school and the authorizer. In the



1 event of a public charter school closure for any reason, the
2 authorizer shall oversee and work with the closing school to
3 ensure a smooth and orderly closure and transition for students
4 and parents, as guided by the closure protocol.

5 (b) In the event of a public charter school closure for
6 any reason, the assets of the school, excluding facilities,
7 shall be distributed first to satisfy outstanding payroll
8 obligations for employees of the school, then to creditors of
9 the school, and then to the state treasury to the credit of the
10 general fund. If the assets of the school are insufficient to
11 pay all parties to whom the school owes compensation, the
12 prioritization of the distribution of assets may be determined
13 by decree of a court of law.

14 (c) In the event of a public charter school closure for
15 any reason, other public charter schools shall have the right of
16 first refusal for the closed public charter school's facilities.
17 If no other public charter school exercises the right of first
18 refusal, the facilities shall revert back to the department and
19 the State.

20 § -20 **Charter transfers.** Transfer of a charter
21 contract, and of oversight of that public charter school, from
22 one authorizer to another before the expiration of the charter



1 term shall not be permitted except by special petition to the
2 board by a public charter school or its authorizer. The board
3 shall review such petitions on a case-by-case basis and may
4 grant transfer requests in response to special circumstances and
5 evidence that such a transfer would serve the best interests of
6 the public charter school's students.

7 § **-21 Annual board report.** On or before of
8 each year, the board shall issue to the governor, the
9 legislature, and the public, an annual report on the State's
10 public charter schools, drawing from the annual reports
11 submitted by every authorizer as well as any additional relevant
12 data compiled by the board, for the school year ending in the
13 preceding calendar year. The annual report shall include:

- 14 (1) A comparison of the performance of public charter
15 school students with the performance of academically,
16 ethnically, and economically comparable groups of
17 students in public schools governed by chapter 302A;
- 18 (2) The board's assessment of the successes, challenges,
19 and areas for improvement in meeting the purposes of
20 this chapter, including the board's assessment of the
21 sufficiency of funding for public charter schools, and



1 any suggested changes in state law or policy necessary
2 to strengthen the State's public charter schools;

3 (3) A line-item breakdown of all federal funds received by
4 the department and distributed to authorizers; and

5 (4) Any concerns regarding equity and recommendations to
6 improve access to and distribution of federal funds to
7 public charter schools.

8 § -22 **Board as final arbitrator.** (a) The board shall
9 serve as the final arbitrator of any dispute between an
10 authorizer, charter school, governing board, and the department.

11 (b) A party shall not be entitled to a hearing before the
12 board under this section until it has exhausted all available
13 administrative remedies.

14 (c) The board shall adopt applicable rules and procedures
15 pursuant to chapter 91 for implementing this section.

16 § -23 **Minimum educational data reporting procedures.**

17 The board shall establish educational reporting procedures that
18 shall include minimum procedures for reporting fiscal,
19 personnel, and student data, by means of electronic transfer of
20 data files from charter schools to the department. All charter
21 schools shall comply with the minimum reporting procedures by
22 the beginning of the 2013-2014 school year.



1 § **-24 Occupancy and use of facilities of public schools.**

2 (a) When the department considers whether to close any
3 particular public school, the department shall submit a notice
4 of possible availability of a public school or notice of vacancy
5 of a public school to the board pursuant to section
6 302A-1151.5(b); provided that the department has not elected to
7 use the public school to support education programs.

8 (b) If a charter school exclusively or jointly occupies or
9 uses buildings or facilities of a public school immediately
10 prior to converting to a charter school, upon conversion that
11 charter school shall be given continued exclusive or joint use
12 of the buildings or facilities; provided that:

13 (1) The State may reclaim some or all of the buildings or
14 facilities if it demonstrates a tangible and
15 imperative need for such reclamation; and

16 (2) The State and the conversion charter school
17 voluntarily enter into an agreement detailing the
18 portion of those buildings or facilities that shall be
19 reclaimed by the State and a timetable for the
20 reclamation. If a timetable cannot be reached, the
21 State may petition the board for the reclamation, and
22 the board may grant the petition only to the extent



1 that it is not possible for the conversion charter
2 school and the State to jointly occupy or use the
3 buildings or facilities.

4 (c) Upon receipt of a notice pursuant to section
5 302A-1151.5(b), the board shall solicit applications from
6 charter schools interested in using and occupying all or
7 portions of the facilities of the public school by:

- 8 (1) Promptly notifying all charter schools that the public
9 school is being considered for closure; and
- 10 (2) Affording each charter school an opportunity to submit
11 an application with a written explanation and
12 justification of why the charter school should be
13 considered for possible occupancy and use of the
14 facilities of the public school.

15 (d) After fully considering each charter school's
16 application and based on the applications received and on other
17 considerations, the board shall:

- 18 (1) Provide a written response to each charter school's
19 application after each application has been fully
20 considered;
- 21 (2) Compile a prioritized list of charter schools; and



1 (3) Make a final determination of which charter school, if
2 any, shall be authorized to use and occupy the public
3 school facilities.

4 (e) Upon the selection of a charter school to use a vacant
5 school facility or portion of a school facility, the department
6 and the charter school's authorizer shall enter into necessary
7 agreements within ninety days of the selection to carry out the
8 purposes of this section; provided that any agreement between
9 the authorizer and the department shall stipulate that a charter
10 school that uses and occupies a public school facility or
11 portion of a public school facility shall be responsible for the
12 full or pro rata share of the repair and maintenance costs for
13 that facility or portion of the facility, as the case may be.

14 (f) The board shall adopt policies and procedures
15 necessary to carry out the purposes of this section, including
16 but not limited to:

17 (1) Procedures for charter schools to apply in writing to
18 use vacant school facilities;

19 (2) Criteria for the board to use in determining which
20 charter schools to include on the prioritized list to
21 be submitted to the department; and



1 (3) Procedures for the board to notify charter school
2 applicants that are granted or denied the use of
3 vacant school facilities.

4 (g) For purposes of this section, "public school" means
5 any school that falls within the definition of public schools in
6 section 302A-101, except for charter schools.

7 § -25 Exemptions from state laws. (a) Charter schools
8 shall be exempt from chapters 91 and 92 and all other state laws
9 in conflict with this chapter, except those regarding:

10 (1) Collective bargaining under chapter 89; provided that:

11 (A) The exclusive representatives as defined in
12 chapter 89 and the governing board of the charter
13 school may enter into supplemental agreements
14 that contain cost and noncost items to facilitate
15 decentralized decision-making;

16 (B) The agreements shall be funded from the current
17 allocation or other sources of revenue received
18 by the charter school; provided that collective
19 bargaining increases for employees shall be
20 allocated by the department of budget and finance
21 to the charter school's authorizer for
22 distribution to the charter school; and



1 (C) These supplemental agreements may differ from the
2 master contracts negotiated with the department;

3 (2) Discriminatory practices under section 378-2; and

4 (3) Health and safety requirements.

5 (b) Charter schools, the commission, and authorizers shall
6 be exempt from chapter 103D, but shall develop internal policies
7 and procedures for the procurement of goods, services, and
8 construction, consistent with the goals of public accountability
9 and public procurement practices. Charter schools, the
10 commission, and authorizers are encouraged to use the provisions
11 of chapter 103D where possible; provided that the use of one or
12 more provisions of chapter 103D shall not constitute a waiver of
13 the exemption from chapter 103D and shall not subject the
14 charter school, commission, or authorizer to any other provision
15 of chapter 103D. Charter schools, the commission, and
16 authorizers shall account for funds expended for the procurement
17 of goods and services, and this accounting shall be available to
18 the public.

19 (c) Any charter school, prior to the beginning of the
20 school year, may enter into an annual contract with any
21 department for centralized services to be provided by that
22 department.



1 (d) Notwithstanding any law to the contrary, as public
2 schools and entities of the State, a charter school, the
3 commission, and any authorizer may not bring suit against any
4 other entity or agency of the State.

5 § -26 **Civil service status; employee rights.** (a) Civil
6 service employees of department schools shall retain their civil
7 service status upon the conversion of their school to a
8 conversion charter school. Positions in a conversion charter
9 school that would be civil service in a department public school
10 shall be civil service positions and subject to chapter 76. An
11 employee with civil service status at a conversion charter
12 school who transfers, is promoted, or takes a voluntary demotion
13 to another civil service position shall be entitled to all of
14 the rights, privileges, and benefits of continuous,
15 uninterrupted civil service. Civil service employees of a
16 conversion charter school shall have civil service status in the
17 department's civil service system and shall be entitled to all
18 rights, privileges, and benefits as other civil service
19 employees employed by the department. Exempt employees as
20 provided in section 76-16(b)(11)(B) of a conversion charter
21 school shall have support services personnel status in the
22 department's support services personnel system and shall be



1 entitled to all rights, privileges, and benefits as other exempt
2 employees employed by the department in their support services
3 personnel system.

4 (b) The State shall afford administrative, support, and
5 instructional employees in charter schools full participation in
6 the State's systems for retirement, workers' compensation,
7 unemployment insurance, temporary disability insurance, and
8 health benefits in accordance with the qualification
9 requirements for each.

10 (c) The department, to the extent possible, shall provide
11 its position listings to the commission, authorizers, and any
12 interested governing board of any charter school.

13 (d) The department, in conjunction with the commission and
14 authorizers, shall facilitate and encourage the movement of
15 instructional personnel between the department and charter
16 schools; provided that:

17 (1) Comparable and verifiable professional development and
18 employee evaluation standards and practices, as
19 determined and certified by the commission or
20 authorizer, are in place in charter schools for
21 instructional staff;



1 (2) Licensed charter school teachers, as determined by the
 2 Hawaii teacher standards board, who are not yet
 3 tenured in the department and are entering or
 4 returning to the department after full-time employment
 5 of no less than one full school year at a charter
 6 school, shall be subject to no more than one year of
 7 probationary status; and

8 (3) Tenured department licensed teachers, as determined by
 9 the department, who transfer to charter schools shall
 10 not be required to serve a probationary period.

11 (e) The department shall establish a process that permits
 12 employees of department public schools that become conversion
 13 charter schools pursuant to section -14 to transfer to a
 14 department public school governed by chapter 302A.

15 § -27 **Administration of workers' compensation.** The
 16 department of human resources development shall administer
 17 workers' compensation claims for employees of charter schools,
 18 who shall be covered by the same self-insured workers'
 19 compensation system as other public employees. The department
 20 of human resources development shall process, investigate, and
 21 make payments on claims; provided that:



1 (1) Charter schools shall compile the preliminary claim
2 form and forward it to the department of human
3 resources development; and

4 (2) The department of human resources development shall
5 receive no more than 0.07 per cent of the EDN 600
6 appropriation to process these workers' compensation
7 claims.

8 § -28 **Funding and finance.** (a) Beginning with fiscal
9 year 2013-2014, and each fiscal year thereafter, the non-
10 facility general fund per-pupil funding request for charter
11 school students shall be the same as the general fund per-pupil
12 amount to the department in the most recently approved executive
13 budget recommendation for the department and shall be based upon
14 reasonable projected enrollment figures for all charter schools.
15 The general fund per-pupil request for each regular education
16 and special education student shall:

17 (1) Include all general fund regular education cost
18 categories, including comprehensive school support
19 services, but excluding special education services,
20 adult education, and the after-school plus program;
21 provided that these services are provided and funded
22 by the department; and



1 (2) Exclude fringe benefit costs and debt service.

2 (b) Fringe benefit costs for charter school employees,
3 regardless of the payroll system utilized by a charter school,
4 shall be included in the department of budget and finance's
5 annual budget request. No fringe benefit costs shall be charged
6 directly to or deducted from the charter school per-pupil
7 allocations.

8 The legislature shall make an appropriation based upon the
9 budget request; provided that the legislature may make
10 additional appropriations for facility and other costs.

11 The governor, pursuant to chapter 37, may impose
12 restrictions or reductions on charter school appropriations
13 similar to those imposed on other public schools.

14 (c) 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 commission and
17 authorizers with all state-level federal grant proposals
18 submitted by the department that include charter schools as
19 potential recipients and timely reports on state-level federal
20 grants received for which charter schools may apply or are
21 entitled to receive. Federal funds received by the department
22 for charter schools shall be transferred to authorizers for



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

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

20 All additional funds generated by the governing boards,
21 that are not from a supplemental grant, shall be held separate



1 from allotted funds and may be expended at the discretion of the
2 governing boards.

3 (d) Authorizers shall calculate a general fund per-pupil
4 amount based upon the amount of general funds appropriated by
5 the legislature and released by the governor and the projected
6 enrollment amount used to calculate the general funds
7 appropriated pursuant to subsection (a); provided that:

8 (1) Per-pupil distributions to the charter schools
9 pursuant to subsection (e) shall be based upon the
10 per-pupil amount as calculated by authorizers pursuant
11 to this subsection. The per-pupil distributions shall
12 be deposited into the charter schools account
13 established by subsection (i); and

14 (2) In years when the projected enrollment used to
15 calculate the per-pupil amount pursuant to this
16 subsection exceeds the total actual enrollment as
17 reported by the charter schools as of October 15, the
18 excess funds shall remain in the state treasury in the
19 charter schools account;

20 (A) General funds appropriated pursuant to this
21 section remaining in the charter schools account
22 within the state treasury at the end of each



1 fiscal year and in excess of \$5,000,000 shall
2 lapse to the credit of the state general fund;
3 and

4 (B) General funds remaining in the charter schools
5 account in the state treasury appropriated
6 pursuant to this section that are less than
7 \$5,000,000 shall carry over to subsequent years
8 to be used to provide per-pupil funding in years
9 when the projected enrollment amount is less than
10 the actual per-pupil enrollment reported by the
11 charter schools on October 15 of each year.

12 Authorizers shall submit a report to the legislature no
13 later than twenty days prior to the convening of each regular
14 session that contains each charter school's current school year
15 projection that is used to submit the budget request, the
16 updated May 15 enrollment projection, the actual October 15
17 enrollment count, the authorizer's reviewed and verified
18 enrollment count, and the November 15 enrollment count. This
19 report shall also provide an accounting of the use, if any, of
20 state general funds subject to paragraph (2)(B).

21 (e) To enable charter schools to access state funding
22 prior to the start of each school year, foster their fiscal



1 planning, enhance their accountability, and avoid over-
2 allocating general funds to charter schools based on self-
3 reported enrollment projections, authorizers shall:

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

10 (2) Provide an additional thirty per cent of a charter
11 school's per-pupil allocation no later than December 1
12 of each year, based on the October 15 student
13 enrollment, as reviewed and verified by the
14 authorizer, only to schools in compliance with all
15 financial reporting requirements; and

16 (3) Retain no more than the balance of the remaining ten
17 per cent of a charter school's per-pupil allocation,
18 as a contingency balance to ensure fiscal
19 accountability and compliance, no later than June 30
20 of each year;

21 provided that the board may make adjustments in allocations
22 based on noncompliance with board policies made in the board's



1 capacity as the state education agency, department directives
2 made in the department's capacity as the state education agency,
3 the board's administrative procedures, and board-approved
4 accountability requirements.

5 (f) Any check transferring a per-pupil allocation from an
6 authorizer to a charter school under this section shall be
7 co-signed by the executive director of the commission and an
8 authorized agent of the authorizer.

9 (g) The department shall provide appropriate transitional
10 resources to a conversion charter school for its first year of
11 operation as a charter school based upon the department's
12 allocation to the school for the year prior to the conversion.

13 (h) No start-up charter school or conversion charter
14 school may assess tuition.

15 (i) There is created in the treasury of the State, as a
16 separate account, the charter schools account, into which shall
17 be deposited per-pupil distributions in accordance with
18 subsection (d). Funds in this account may be used for the
19 implementation of this chapter and for any use deemed
20 appropriate by the legislature.

21 § -29 **Weighted student formula.** (a) Notwithstanding
22 section -28, charter schools shall elect whether to receive



1 allocations according to the department's weighted student
2 formula adopted pursuant to section 302A-1303.6; provided that:

3 (1) All charter schools, as a group, with each governing
4 board being accorded one vote, shall elect, by greater
5 than two-thirds agreement among the governing boards,
6 whether to receive allocations through the
7 department's weighted student formula; provided that a
8 nonprofit organization that governs more than one
9 conversion charter school may cast one vote
10 representing each school it governs;

11 (2) Any election by charter schools to receive department
12 allocations, or not to receive allocations, through
13 the department's weighted student formula shall be
14 made by September 1 of each even-numbered year, and
15 the election shall apply to the fiscal biennium
16 beginning July 1 of the following year; provided that
17 the appropriate funds shall be transferred by the
18 department to the authorizers for distribution to the
19 charter schools they authorize; and

20 (3) The election to receive allocations, or not to receive
21 allocations, through the department's weighted student



1 formula shall be communicated to the department
2 through the commission.

3 (b) The charter schools, through their authorizer, may
4 propose to the board an alternative weighted student formula,
5 approved by more than two-thirds of the governing boards, with
6 each governing board being accorded one vote, to be administered
7 by the commission and to apply to the per-pupil allocation for
8 charter schools.

9 § -30 **Responsibilities of the department; special**
10 **education services.** (a) The department shall collaborate with
11 the commission to develop a system of technical assistance
12 related to compliance with federal and state laws and access to
13 federal and state funds. The department and the commission
14 shall collaborate to develop a list of central services that the
15 department may offer for purchase by a charter school at an
16 annual cost to be negotiated between an individual charter
17 school and the department. The department shall enter into a
18 contract with a charter school to provide these services, which
19 shall be renegotiated on an annual basis.

20 (b) The department shall be responsible for the provision
21 of a free appropriate public education. Any charter school that
22 enrolls special education students or identifies one of its



1 students as eligible for special education shall be responsible
2 for providing the educational and related services required by a
3 student's individualized education program. The programs and
4 services for the student shall be determined collaboratively by
5 the student's individualized education program team and the
6 student's parents or legal guardians.

7 If the charter school is unable to provide all of the
8 required services, then the department shall provide the student
9 with services as determined by the student's individualized
10 educational program team. The department shall collaborate with
11 the commission to develop guidelines related to the provision of
12 special education services and resources to each charter school.
13 The department shall review all of the current individualized
14 education programs of special education students enrolled in a
15 charter school and may offer staff, funding, or both, to the
16 charter school based upon a per-pupil weighted formula
17 implemented by the department and used to allocate resources for
18 special education students in the public schools.

19 § -31 **Sports.** The department shall provide students at
20 charter schools with the same opportunity to participate in
21 athletics as is provided to students at other public schools.

22 If a student at a charter school wishes to participate in a



1 sport for which there is no program at the charter school, the
2 department shall allow that student to participate in a
3 comparable program of any public school in the complex in which
4 the charter school is located."

5 SECTION 3. Section 26-35.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) For purposes of this section, "member" means any
8 person who is appointed, in accordance with the law, to serve on
9 temporary or permanent state board, including members of the
10 board of education, the [~~local school~~] governing board of any
11 charter school established under chapter [~~302B~~], _____, council,
12 authority, committee, or commission, established by law or
13 elected to the board of trustees of the employees' retirement
14 system under section 88-24, or the corporation board of the
15 Hawaii health systems corporation under section 323F-3 and its
16 regional system boards under section 323F-3.5; provided that
17 "member" shall not include any person elected to serve on a
18 board or commission in accordance with chapter 11."

19 SECTION 4. Section 89-6, Hawaii Revised Statutes, is
20 amended by amending subsection (f) to read as follows:



1 "(f) The following individuals shall not be included in
2 any appropriate bargaining unit or be entitled to coverage under
3 this chapter:

4 (1) Elected or appointed official;

5 (2) Member of any board or commission; provided that
6 nothing in this paragraph shall prohibit a member of a
7 collective bargaining unit from serving on a [~~local~~
8 ~~school~~] governing board of a charter school, on the
9 state public charter school commission, or [the] as a
10 charter school [review panel] authorizer established
11 under chapter [302B+] _____;

12 (3) Top-level managerial and administrative personnel,
13 including the department head, deputy or assistant to
14 a department head, administrative officer, director,
15 or chief of a state or county agency or major
16 division, and legal counsel;

17 (4) Secretary to top-level managerial and administrative
18 personnel under paragraph (3);

19 (5) Individual concerned with confidential matters
20 affecting employee-employer relations;

21 (6) Part-time employee working less than twenty hours per
22 week, except part-time employees included in unit (5);



- 1 (7) Temporary employee of three months' duration or less;
- 2 (8) Employee of the executive office of the governor or a
- 3 household employee at Washington Place;
- 4 (9) Employee of the executive office of the lieutenant
- 5 governor;
- 6 (10) Employee of the executive office of the mayor;
- 7 (11) Staff of the legislative branch of the State;
- 8 (12) Staff of the legislative branches of the counties,
- 9 except employees of the clerks' offices of the
- 10 counties;
- 11 (13) Any commissioned and enlisted personnel of the Hawaii
- 12 national guard;
- 13 (14) Inmate, kokua, patient, ward, or student of a state
- 14 institution;
- 15 (15) Student help;
- 16 (16) Staff of the Hawaii labor relations board;
- 17 (17) Employees of the Hawaii national guard youth challenge
- 18 academy; or
- 19 (18) Employees of the office of elections."

20 SECTION 5. Section 89-10.55, Hawaii Revised Statutes, is
 21 amended by amending subsections (c) and (d) to read as follows:



1 "(c) For the purpose of negotiating a memorandum of
2 agreement or a supplemental agreement that only applies to
3 employees of a charter school, the employer shall mean the
4 [~~local school~~] governing board, subject to the conditions and
5 requirements contained in the applicable sections of this
6 chapter governing any memorandum of agreement or supplemental
7 agreement.

8 (d) Negotiations over matters covered by this section
9 shall be conducted between the employer and exclusive
10 representative pursuant to this chapter. Cost items that are
11 appropriated for and approved by the legislature and contained
12 in a collective bargaining agreement, memorandum of agreement,
13 or supplemental agreement covering, wholly or partially,
14 employees in charter schools shall be allocated by the
15 department of budget and finance to [~~the~~] a charter school
16 [~~administrative office~~] authorizer for distribution to the
17 charter [~~schools.~~] schools it authorizers. However, if the
18 charter school [~~administrative office~~] authorizer deems it
19 appropriate, the cost items may be funded from a charter
20 school's existing allocation or other sources of revenue
21 received by a charter school."



1 SECTION 6. Section 302A-101, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding two new definitions to be appropriately
4 inserted and to read:

5 "Authorizer" has the same meaning as in section -1.

6 "Commission" has the same meaning as in section -1."

7 2. By deleting the definitions of "charter school
8 administrative office" or "office" and "charter school review
9 panel" or "panel".

10 [~~"Charter school administrative office" or "office" means~~
11 ~~the office established in section 302B-8 responsible for the~~
12 ~~internal organization, operation, and management of the charter~~
13 ~~school system.~~

14 [~~"Charter school review panel" or "panel" means the panel~~
15 ~~established in section 302B-3."]~~

16 SECTION 7. Section 302A-1101, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

18 "(d) The board shall appoint the state public charter
19 school [~~review panel,~~] commission which shall serve as the
20 statewide charter authorizer for charter schools, with the power
21 and duty to issue charters, oversee and monitor charter schools,



1 hold charter schools accountable for their performance, and
2 revoke charters."

3 SECTION 8. Section 302A-1151, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§302A-1151 Sale of school lands unnecessary for school**
6 **purposes.** The chairperson of the board of land and natural
7 resources is hereby requested, upon the recommendation and
8 approval of the superintendent, to sell any state lands,
9 including the buildings thereon, once used but no longer
10 necessary for school purposes; provided that no school facility
11 or portion of a school facility shall be sold before that
12 facility or portion of the facility is made available for use by
13 the department or charter schools, pursuant to [~~sections~~]
14 section 302A-1151.5 [~~and 302B-3.6~~]."

15 SECTION 9. Section 302A-1151.5, Hawaii Revised Statutes,
16 is amended by amending subsections (b) to (e) to read as
17 follows:

18 "(b) The department shall submit a notice of possible
19 availability of a public school to the [~~charter school review~~
20 ~~panel~~] board as early as possible; provided that if a vacancy is
21 established, a notice of vacancy shall be submitted to the



1 ~~[charter school review panel]~~ board no later than thirty days
2 after the establishment of the vacancy.

3 (c) Pursuant to section ~~[302B-3.6]~~ _____-24 and upon
4 receipt of a notice pursuant to subsection (b), the ~~[charter~~
5 ~~school review panel]~~ board shall solicit applications from
6 charter schools interested in using and occupying all or
7 portions of the facilities of the public school and submit a
8 prioritized list of charter schools to the department for final
9 determination of which charter school, if any, shall be
10 authorized to use and occupy the public school facilities.

11 (d) Upon the selection of a charter school to use a vacant
12 school facility or portion of a school facility, the department
13 and the ~~[charter school review panel]~~ selected charter school's
14 governing board shall enter into necessary agreements within
15 ninety days of the selection to carry out the purposes of this
16 section.

17 (e) After receipt by the ~~[charter school review panel]~~
18 board of a notice pursuant to subsection (b), if the ~~[charter~~
19 ~~school review panel]~~ board does not ~~[provide]~~ compile a
20 prioritized list of charter schools because no charter school
21 has requested to use the facilities of the public school, or if
22 the ~~[department receives the prioritized list but]~~ board



1 determines that no charter school on the list is an appropriate
2 candidate to occupy and use the facilities, the department shall
3 give reasonable consideration to making all or portions of the
4 facilities of the public school, if closed, available for
5 occupancy and use for other educational purposes."

6 SECTION 10. Section 302A-1303.6, Hawaii Revised Statutes,
7 is amended to read as follows:

8 "**§302A-1303.6 Weighted student formula.** Based upon
9 recommendations from the committee on weights, the board of
10 education, not less than once every odd-numbered year, shall
11 adopt a weighted student formula for the allocation of moneys to
12 public schools that takes into account the educational needs of
13 each student. The department, upon the receipt of appropriated
14 moneys, shall use the weighted student formula to allocate funds
15 to public schools. Principals shall expend moneys provided to
16 the principals' schools. This section shall only apply to
17 charter schools for fiscal years in which the charter schools
18 elect pursuant to section [~~302B-13~~] -29 to receive
19 allocations according to the weighted student formula."

20 SECTION 11. Section 302A-1403, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§302A-1403 Authority to secure federal funds.** The
2 department, the state public charter school [~~administrative~~
3 ~~office,~~] commission, a charter school authorizer, director of
4 finance, and governor may take such steps and perform such acts
5 as may be necessary or proper to secure any such federal funds
6 for the purposes specified in sections 302A-1401 and 302A-1402."

7 SECTION 12. Section 302A-1404, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The department and the state public charter school
10 [~~administrative office,~~] commission or an authorizer, as
11 appropriate, may retain and expend federal indirect overhead
12 reimbursements for discretionary grants in excess of the
13 negotiated rate for such reimbursements as determined by the
14 director of finance and the superintendent or the director of
15 finance and the [~~executive director of the~~] state public charter
16 school [~~administrative office.~~] commission or an authorizer, as
17 appropriate."

18 SECTION 13. Section 302A-1505, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Prior to informing the department about the school's
21 repair and maintenance needs, the school's principal shall
22 consider the recommendations made by the school community



1 council or the [~~local school~~] governing board, if the school is
2 a charter school."

3 SECTION 14. Section 302B-12, Hawaii Revised Statutes, is
4 amended by amending subsection (i) to read as follows:

5 "(i) There is created in the treasury of the State, as a
6 separate account, the charter schools account, into which shall
7 be deposited per-pupil distributions in accordance with
8 subsection (d). Funds deposited into the charter schools
9 account shall be used by the board to hire an implementation and
10 transition coordinator pursuant to Act , Session Laws of
11 Hawaii 2012, and for any other purpose deemed appropriate by the
12 legislature."

13 SECTION 15. Chapter 302B, Hawaii Revised Statutes, is
14 repealed.

15 SECTION 16. Notwithstanding any law to the contrary, the
16 members of the charter school review panel serving on the day of
17 the effective date of this Act shall serve on the state public
18 charter school commission until the appointment of no fewer than
19 five members to the state public charter school commission
20 pursuant to section 2 this Act, at which time all members of the
21 charter school review panel shall be discharged from service and
22 the members of the state public charter school commission shall



1 begin their service; provided that any vacancy in the charter
2 school review panel occurring between the effective date of this
3 Act and the discharge from office of all charter school review
4 panel members shall remain vacant until appointed to the state
5 public charter school commission by the board of education
6 pursuant to this Act.

7 SECTION 17. In printing this Act, the revisor of statutes
8 shall insert, in section 14 of this Act, the corresponding Act
9 number for S.B. No. 2116, in any form passed by the legislature,
10 Regular Session of 2012.

11 SECTION 18. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 19. This Act shall take effect on July 1, 2013;
14 provided that section 14 of this Act shall take effect upon
15 approval.



Report Title:

Education; Charter Schools

Description:

Establishes a new chapter governing charter schools based on the recommendations of the charter school governance, accountability, and authority task force established by Act 130, Session Laws of Hawaii 2011, effective 7/1/2013. Repeals chapter 302B, HRS, on 7/1/2013. Makes housekeeping amendments. Authorizes use of charter schools account funds to hire implementation and transition coordinator and for other purposes, effective upon approval date of Act. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

