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# Performance Audit of the Hawai'i Public Charter School System

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A Report to the  
Governor  
and the  
Legislature of  
the State of  
Hawai'i

Report No. 11-03  
December 2011



**THE AUDITOR**  
STATE OF HAWAII

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## Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
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State Auditor  
State of Hawai'i

**“Off the top of my  
head.”**

— *Charter school principal  
when asked how he filled  
out a section of the annual  
self-evaluation, the prog-  
ress report schools submit  
to the Charter School  
Review Panel.*

Recommendations

Responses

Previous Audits

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# Performance Audit of the Hawai'i Public Charter School System

## Report No. 11-03, December 2011

### *Hawai'i Charter Schools: Autonomy Without Accountability*

#### **No outside oversight**

Since 1995, Hawai'i's public charter schools have provided parents and their children with alternative choices in the types of schools, educational programs, opportunities, and settings. To do so, teachers and administrators operate independently, enjoying the flexibility to shape the best working and learning environments for their students and themselves. In exchange for this autonomy, school officials should achieve clear, objective, and measurable performance outcomes. In SY2009-10, nearly 8,000 students attended 31 charter schools throughout the state. That year, the charter school system had a general fund budget of \$49.7 million.

In our audit of the Hawai'i public charter school system, we found that the Charter School Review Panel, which authorizes and should hold charter schools accountable for their performance, has misinterpreted state law and minimized its role in the system's accountability structure. Focusing on its duties as authorizer and re-authorizer, the panel has delegated core monitoring and reporting responsibilities to the local school boards, removing itself—and outside oversight—from the charter school system. The panel does not verify and analyze the data it receives from the schools for accuracy and completeness, nor does it collect its own data to measure student performance. Our analysis of student performance reports from ten schools found numerous instances in which critical data, such as the Hawai'i State Assessment scores for reading, mathematics, and science, were omitted or presented in misleading ways. When we collected and analyzed that data, we found that five schools failed to meet federal No Child Left Behind testing standards. Test scores from several of those schools were substantially lower than other public schools in their districts. Moreover, four schools misreported enrollment numbers. For one school's enrollment count, we could not verify 28 students. With funding based on SY2009-10 per-pupil allocation of \$5,753, that amounts to more than \$160,000.

#### **Unethical and illegal spending of public funds**

Although charter schools are exempt from the Hawai'i Public Procurement Code, they must comply with the State Code of Ethics. However, only two public charter schools of the ten we reviewed have a school ethics policy and only three follow the ethics code. Moreover, Hawai'i Technology Academy's (HTA) head of school, who is responsible for school spending, is not a public employee but an employee of the for-profit company that provides the school's curriculum. As a private-sector employee, he is not subject to the ethics code and is ultimately accountable to his company, not the State or his school. In FY2010, HTA received \$3.04 million in state moneys.

We also found that the lack of oversight by the review panel, the Charter School Administrative Office, which is responsible for management of the charter school system, and the local school boards has resulted in school spending and employment practices that are unethical and illegal. At the Myron B. Thompson Academy, we found \$133,000 in overpayments to staff. For example, the school's part-time registrar received an "administrative differential" that boosted his annual pay to \$55,200, a 212 percent increase. At other charter schools, we found instances of unrestrained spending, including one school that spent nearly \$18,000 in public money on school excursions to an amusement park, ice skating rink, and pizza restaurant. Unless the review panel and the administrative office take active roles in a robust accountability system for charter schools, student outcomes will remain unproven and the financial viability of individual schools and the charter school system itself will be unknown.

#### **Responses from affected agencies**

While generally agreeing with our recommendations, both the panel and the office took issue with certain details. However, these attempts to refute and parse our documented findings are illogical and unsupported, and do not merit changing our report.

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# Performance Audit of the Hawai'i Public Charter School System

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Submitted by

**THE AUDITOR**  
STATE OF HAWAI'I

Report No. 11-03  
December 2011



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## Foreword

This is a report on the performance audit of the Hawai'i Public Charter School System. The Auditor initiated this audit on the basis of a constitutional and statutory duty to conduct post-audits of the transactions, accounts, programs and performance of all departments, offices, and agencies of the State and its political subdivisions. These duties are provided for in Article VII, Section 10 of the State Constitution and Section 23-4, Hawai'i Revised Statutes (HRS).

We wish to express our appreciation for the cooperation and assistance extended to us by the Board of Education, the staff of the Department of Education, the Charter School Review Panel, the Charter School Administrative Office, the staff of the selected charter schools we visited, and others whom we contacted during the course of the audit.

Marion M. Higa  
State Auditor

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# Chapter 1

## Introduction

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Charter schools are public schools that are granted greater autonomy in exchange for greater accountability. This contract or “bargain” between school officials and the broader community is the bedrock of any successful charter school system. This is because charter schools provide parents and their children with choices in the types of schools, educational programs, opportunities, and settings. To do so, teachers and administrators are allowed to operate independently, enjoying the freedom and flexibility to shape the best working and learning environment for their students and themselves. As a result, charter schools also serve as incubators of innovative approaches to educational governance, financing, administration, curricula, technology, and teaching strategies.

Since some of these new approaches may work and others may not, a robust reporting and accountability structure is essential to ensuring that good charter schools are identified, cultivated, and emulated, while unsuccessful ones are closed. Therefore, charter schools are *more* accountable for their results than conventional public schools. Specifically, they must set and meet rigorous academic goals in addition to meeting or exceeding a state’s basic proficiency standards, all the while demonstrating fiscal responsibility. Also, unlike other public schools, charter schools are expected to operate under increased public scrutiny, not avoid it.

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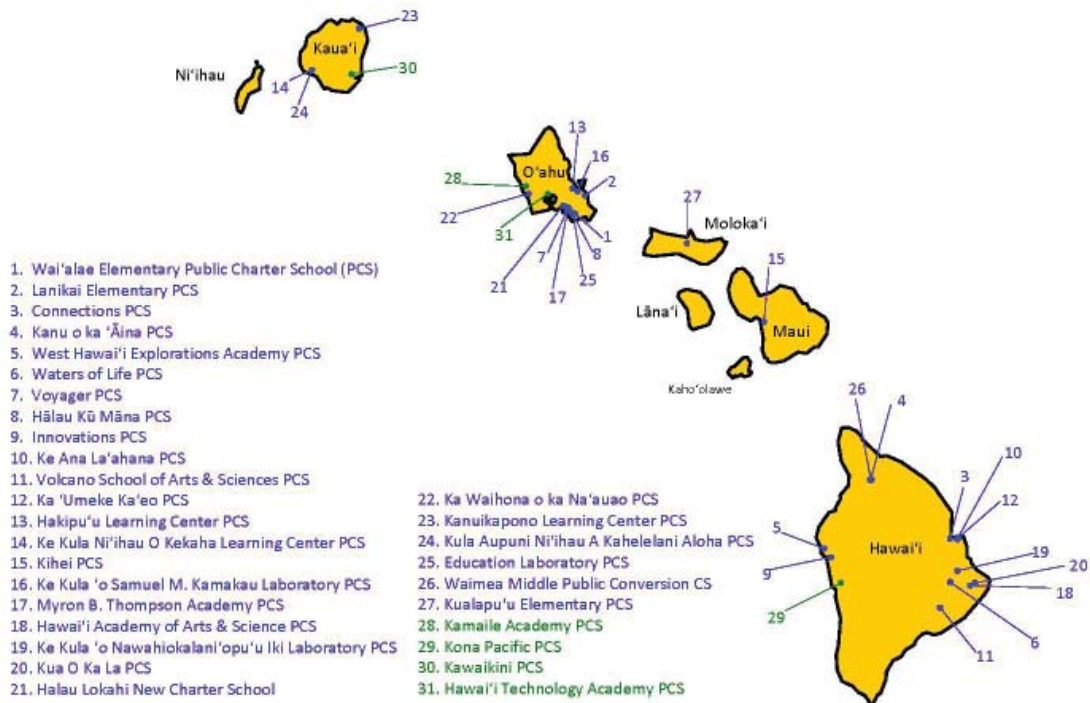
## Background

Charter schools are an important and growing component of the public school system in the United States. As of November 2009, more than 5,000 charter schools served over 1.5 million students in 40 states and the District of Columbia. During SY2009-10, Hawai‘i’s 31 charter schools served approximately 7,800 students or 4.4 percent of students officially enrolled in Hawai‘i’s public schools. Five of the schools are conversion charter schools—established Department of Education (DOE) public schools that converted to charter status. Exhibit 1.1 shows the location of charter schools statewide. Appendix A provides a list of charter schools, their locations, student populations, and dates established.

This is the first performance audit of the Hawai‘i public charter school system since the first schools were statutorily approved in 1999. The purpose of this audit is to examine how well Hawai‘i’s system of charter schools has delivered on its promise to meet rigorous academic goals in exchange for more autonomy. The Auditor initiated this audit on the

basis of a constitutional and statutory duty to conduct post-audits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions. These duties are provided for in Article VII, Section 10 of the State Constitution and Section 23-4, Hawai‘i Revised Statutes (HRS).

## Exhibit 1.1 Hawai‘i Public Charter Schools



Note: Numbered in approximate order of charter approval. Board of Education approved charters in blue; Charter School Review Panel approved in green.

Source: Charter School Administrative Office and Office of the Auditor

The charter schools' focus areas include Hawaiian culture, arts and sciences, and virtual learning. More than one half of charter schools, or 17, are Hawaiian culture-based. In SY2008-09, about 88 percent of the 3,500 students at these charter schools were of Hawaiian ancestry. Exhibit 1.2 displays photos of some of the schools we visited.

## Exhibit 1.2 Photographs of Public Charter Schools

Kanuikapono Learning Center



Kanuikapono Learning Center is one of 17 charter schools that focuses on Hawaiian culture. The photo depicts the inside of one of the classrooms.

Hawai'i Academy of Arts and Science



Hawai'i Academy of Arts and Science focuses on arts, sciences, project based learning, and STEM (science, technology, engineering, and mathematics). According to the school director, the photo depicts an award-winning science project developed by the students brought to fruition. The project utilizes photovoltaic panels to create a sustainable aquaculture for fish and plants.



West Hawai'i Explorations Academy



West Hawai'i Explorations Academy focuses on hands-on, integrated science projects that have real world environmental foci where students are actively involved in learning. The photos show examples of the school's outdoor campus, consisting of shade tents and temporary structures.

## Hawai'i Technology Academy



The Hawai'i Technology Academy is one of two schools that focuses on virtual learning. The photo depicts one of the school's classrooms.

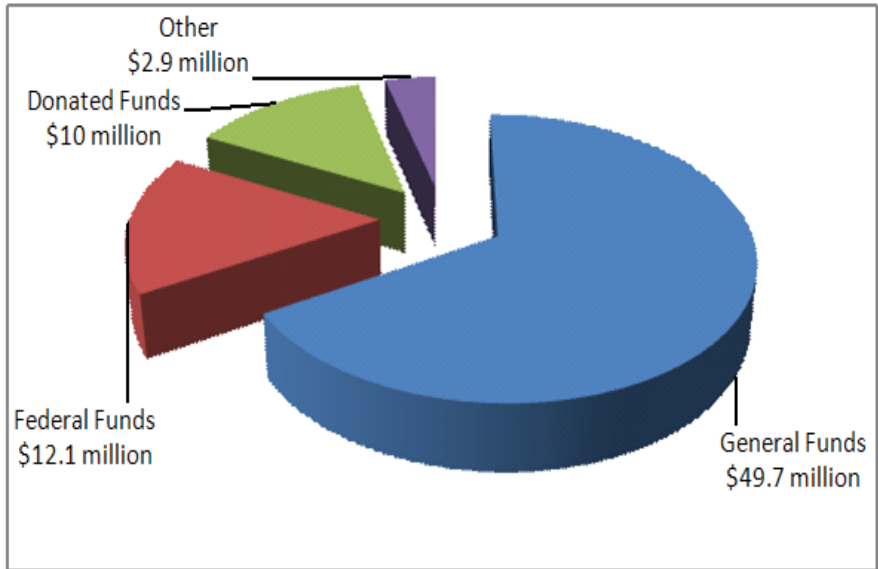
Source: Office of the Auditor

***Charter school funding***

Hawai'i's charter schools are publicly funded. Charter schools receive a majority of their funding through general fund appropriations based on a per pupil allotment. These state appropriations are to be used for instructional and operational purposes. Federal funds, primarily No Child Left Behind Act funds, supplement the charter schools' general funds. Other moneys come from donated, special, trust, and revolving funds. Donated funds include moneys from foundations or non-profit organizations. According to the Charter School Administrative Office's chief financial officer, charter schools have created non-profit organizations into which donations from other sources and school fundraising proceeds can be placed. In total, charter school funding topped \$74.6 million in FY2010. Exhibit 1.3 shows charter school sources of revenues for FY2010.



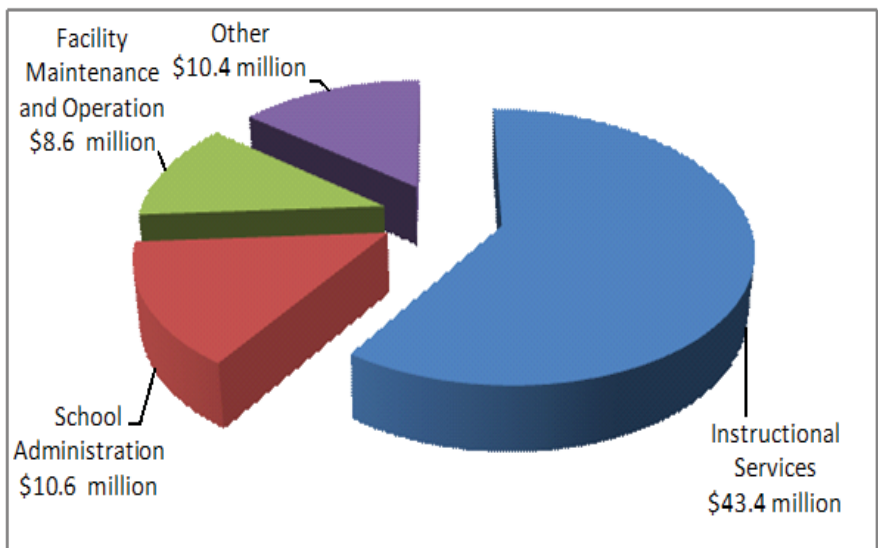
**Exhibit 1.3**  
**Charter School Sources of Revenue for FY2010**



Source: Office of the Auditor

Charter school expenditure categories consist of instructional services, school administration, facility maintenance and operation, and other expenditures comprised of non-instructional pupil services, other fixed charges, and other non-operational expenses. Charter schools' revenue less expenditures was approximately \$1.6 million in FY2010. Exhibit 1.4 shows charter school expenditures for FY2010.

**Exhibit 1.4**  
**Charter School Expenditures for FY2010**



Source: Office of the Auditor

## Hawai‘i public charter schools law

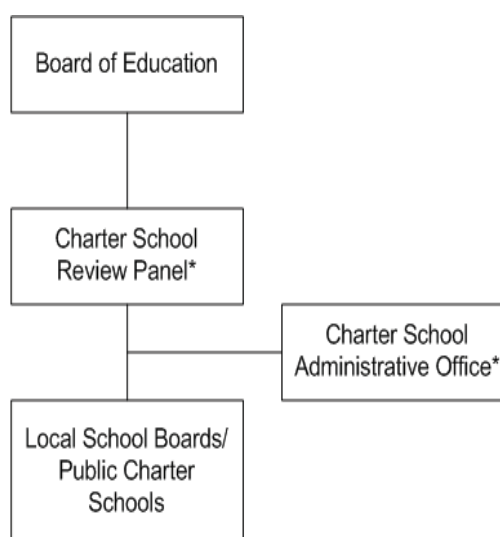
Hawai‘i’s venture with public charter schools began more than a decade ago. In 1999 the Legislature enacted the State’s first charter school law in Act 62, Session Laws of Hawai‘i (SLH) 1999, codified in Chapter 302A, Part IV, Section D, HRS, entitled *New Century Charter Schools*. The purpose of the act was to increase the flexibility and autonomy at the school level for new century charter schools governed by local school boards to operate independent educational programs apart from those provided by the state DOE. New century charter schools were authorized by the Board of Education (BOE).

In 2006, the Legislature adopted proposals developed by the Task Force on Charter School Governance created by Act 87, SLH 2005, to improve the charter school system and address problems in the new century charter schools law. These amendments were codified in a new chapter, Chapter 302B, HRS, entitled *Public Charter Schools*. The Charter School Review Panel is now the authorizer of public charter schools.

### Governance and organization

The charter school system is made up of the Board of Education, the Charter School Review Panel, the Charter School Administrative Office, and the charter schools and their governing boards known as the local school boards. Exhibit 1.5 displays the Hawai‘i public charter school system organization structure.

#### Exhibit 1.5 Hawai‘i Public Charter School System Organization Chart



\*Administratively attached to the Department of Education for administrative purposes only.

Source: Based on the Office of the Auditor’s statutory interpretation of the public charter school laws.

## **Board of Education**

The Board of Education is the nine-member board responsible for statewide policy for Hawai'i's public education system, including charter schools, within the general law set by the Legislature. The board establishes statewide performance standards and the means to assess the standards and has discretion to review and modify the performance standards.

As the charter school authorizer until May 2007, the BOE approved 27 charters for newly created (start-up) charter schools and conversion charter schools. In June 2007, the Legislature amended the law for the BOE to delegate authorization and oversight responsibilities to the Charter School Review Panel. The BOE's powers and duties include the appointing of the panel members as the charter school authorizer, rulemaking for charter schools, deciding appeals from the panel's decisions to deny a charter school detailed implementation plan or revoke a charter school's charter or detailed implementation plan, and denying any amendments to a charter school's detailed implementation plan.

## **Charter School Review Panel**

The Charter School Review Panel issues and revokes charters, oversees and monitors charter schools, and holds charter schools accountable for meeting statewide performance standards set by the BOE. Since becoming the charter school authorizer in 2007, the panel has approved four charter schools as shown in Exhibit 1.1. By law, the panel is accountable to the charter schools and the BOE. For administrative purposes only, the panel is attached to the Department of Education.

The panel consists of 12 members that include licensed teachers, educational officers, a past or present member of a charter school's local school board, the chair of the BOE or the chair's designee, representatives of Hawaiian-culture focused charter schools and the University of Hawai'i, and persons with backgrounds in business or accounting, construction or real estate, who are not affiliated with charter schools.

The panel approves or denies charter school applications. By law, charter school applications must include a detailed implementation plan detailing the school's purpose, focus, operations, organization, finances, and accountability. After approval by the panel, the implementation plan becomes the basis for a performance contract between the panel and the charter school and its local school board.

Upon completion of each school year, charter schools submit to the panel annual self-evaluations which include benchmarks adopted to measure

instructional programs and an evaluation of student achievement and organizational viability.

The panel reviews, modifies, and approves the charter schools' financial budgets. It also appoints the executive director of the Charter School Administrative Office based upon the recommendations of an organization of charter schools operating within the state or from a list of nominees submitted by the charter schools.

### **Charter School Administrative Office**

The Charter School Administrative Office and its executive director handle administrative functions for charter schools. Like the panel, the office is attached to the DOE for administrative purposes.

By law, the executive director, under the direction of the panel and in consultation with the charter schools, is responsible for the internal organization, operation, and management of the charter school system. This includes preparing and executing the budgets for the office, panel, and charter schools; allocating annual appropriations and distributing federal funds; assisting charter applicants and charter schools with information for panel review; and helping disseminate communications. The law requires the office to provide staff support to the panel, cover its expenses, and assist the panel by coordinating with charter schools for investigations and evaluations.

### **Charter schools and their local school boards**

Every charter school is governed by an autonomous local school board comprised of a non-profit organization, or a group of parents, educators, and community members. By law, the charter schools are held accountable through written performance contracts between the panel and the charter schools and their local school boards together. The local school board is responsible for the financial and academic viability of its charter school and implementation of the school's charter. Charter schools must follow collective bargaining employment practices in Chapter 89, HRS, *Collective Bargaining in Public Employment*, and each board has the power to negotiate supplemental collective bargaining agreements with public unions on behalf of its charter school employees who are also state employees.

The charter schools and their local school boards are exempt from a number of state laws, including Chapter 103D, HRS, the *Hawai'i Public Procurement Code*. However, charter schools are required by law to account for spending on goods and services and make their accounting of funds available to the public. The law also requires the local school boards and the schools to develop internal policies and procedures

that are consistent with public accountability when buying goods, services, and construction. In addition, charter schools and their local school boards must comply with state laws that prohibit discriminatory employment practices and protect health and safety.

### **Department of Education**

The DOE's responsibilities to charter schools include working with the Charter School Administrative Office on compliance with federal and state laws and accessing federal and state funds; and offering a list of services for purchase by charter schools.

### **Prior Audits**

In 2005, the Office of the Auditor conducted audits of two charter schools—Waters of Life Public Charter School and Wai‘alae Elementary Public Charter School.

In Report No. 05-01, *Audit of Na Wai Ola Waters of Life Charter School* (now known as Waters of Life Public Charter School), we found the school's disregard for sound governance and business practices placed the school's future in jeopardy. We also found the law impeded accountability and effective support for charter schools, due in part to confusing provisions and poorly defined powers and responsibilities. We recommended that the Legislature enable the BOE to create a panel to propose charter school law changes; the BOE clarify its oversight of charter schools and foster an exchange of proven solutions to common problems facing charter schools; and the school adopt written policies and procedures for accounting, procurement, and personnel practices and improve its governance and business operations. Subsequently, Senate Concurrent Resolution No. 84 of the 2009 legislative session requested us to conduct a financial audit of the school. We were unable to proceed because its financial records were largely missing and could not be recreated.

In Report No. 05-06, *Audit of Wai‘alae Elementary Public Charter School*, we found the school had not demonstrated that its charter status enhanced learning. We also found that its local school board needed to strengthen governance and improve oversight over administrative practices. We recommended that the school adopt accountability measures to supplement available standards-based scores so policy-makers had more information needed to assess its education programs. We also recommended the local school board improve bylaws, policies, and procedures, and develop long-term strategies along with a plan for better accounting and financial reporting capabilities. We also recommended the Legislature evaluate the need to change the law to provide charter schools authority to carry over appropriated funds and clarify for itself requirements for financial audits.

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## Objectives of the Audit

1. Assess the overall effectiveness of charter schools in meeting performance standards for public schools.
2. Determine whether charter schools are in compliance with applicable laws, rules, regulations and charters.
3. Make recommendations as appropriate.

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## Scope and Methodology

Our audit, which covered SY2009-10, focused on the academic performance and public accountability of the charter school system based on a review of selected charter schools. We reviewed detailed implementation plans, annual self-evaluations, policies, procedures, training, reports, and other relevant documents to assess and evaluate charter schools in meeting Hawai'i DOE performance standards for public school students and sound procurement principles for spending public funds. We conducted interviews with the BOE, the state DOE, the panel, the office, local school boards, and charter school personnel.

We analyzed ten of the 31 charter schools for compliance with state and federal laws, rules and regulations. Schools were chosen to provide the greatest possible range of characteristics. Selection criteria included school size, location, charter authorizer, school information technology system, school type (conversion or start-up), presence of a Hawaiian-based curriculum focus, adequate yearly progress status and scores, and number of core classes taught by non-highly qualified teachers. Based on these criteria, we selected Education Laboratory Public Charter School, Hakipu'u Learning Center Public Charter School, Hālau Kū Māna Public Charter School, Hawai'i Academy of Arts and Science Public Charter School, Hawai'i Technology Academy Public Charter School, Kamaile Academy Public Charter School, Kanu o ka 'Āina Public Charter School, Kanuikapono Learning Center Public Charter School, Myron B. Thompson Academy Public Charter School, and West Hawai'i Explorations Academy Public Charter School.

Our audit work was conducted from January 2011 to November 2011 according to generally accepted government auditing standards and the Office of the Auditor's *Manual of Guides*. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Chapter 2

## Hawai'i Public Charter School System: Autonomy Without Accountability

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We found that the Charter School Review Panel (panel), Hawai'i's charter school authorizer, has misinterpreted the law and minimized its important role in the system's reporting and accountability structure. Focusing on its duties as a charter school authorizer and re-authorizer, the panel has delegated core monitoring and reporting responsibilities to the local school boards, effectively removing itself—and outside oversight—from the charter school system.

The panel has failed to establish sound models to measure and evaluate students' academic growth and performance as well as a school's operational effectiveness. In addition, the panel does not collect meaningful and reliable data, and does not analyze the information that it does receive, offering little guidance to the schools. Some local school boards have ignored their own management responsibilities, allowing schools to spend public funds without oversight. We found numerous instances of purchases that were inconsistent with sound procurement principles or ethical conduct. One school's deficiencies border on fraud.

Hawai'i's charter school system has been operating without any real outside oversight since the first charter school opened in 1995. The contract that charter schools made with the public to provide greater accountability in exchange for greater autonomy is not only broken, it may have never existed in the first place.

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### Summary of Findings

1. The Charter School Review Panel fails to hold charter schools accountable for student performance.
2. Charter school operations fail to comply with state law and principles of public accountability.

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### Charter School Review Panel Fails To Hold Charter Schools Accountable for Student Performance

The establishment, support, and control of a statewide system of public schools free from sectarian control is provided for under the Hawai'i State Constitution, Article X, Section 1, entitled *Public Education*. Article X, Section 3 gives the Board of Education (BOE) the power, as provided by law, to formulate statewide educational policy and appoint the superintendent of education as the chief executive of the public school system. The BOE's powers are further defined in Chapter 302A, HRS, to adopt student performance standards and assessment models and to monitor school success. The law requires the Department of



Education (DOE) to serve as the central support system responsible for the overall administration of statewide education policy, and for interpretation and development of standards for compliance with state and federal laws.

Initially, the public charter schools law established the Charter School Review Panel with the powers to make recommendations to the BOE regarding charter schools. In 2007, the charter schools law was amended. It mandated that the BOE delegate its charter school authorizer function to the panel with the power and duty to oversee, monitor, hold schools accountable for their performance, and ultimately to close an underperforming school. The panel became responsible to review, approve, or deny charter applications and significant implementation plan amendments to maximize the charter schools' academic success and long-term organizational viability and accountability. The panel was also to evaluate the charter schools for deciding on reauthorization, probation, and revocation.

***The panel has two documents it uses for assessment***

The panel holds charter schools accountable via two primary documents, the Detailed Implementation Plan (DIP) and the Annual Self-Evaluation (ASE). The DIP, which is presented at the application stage, specifies the charter school's purpose, focus, operations, organization, finances, and accountability. The DIP's requirements include such items as a curricula and instructional framework, provision for program and financial audits, and how the school will recruit and select students. According to the law, if a charter school is approved, the DIP serves as the basis for a performance contract between the panel and the charter school and the governing local school board, holding the school accountable for establishing a plan for the assessment of student performance that incorporates and exceeds the educational content and performance standards for the public school system.

As its name suggests, an ASE is an assessment by school officials of their school's performance to be submitted to the panel within 60 working days after the end of the school year. Some of the self-evaluation elements required by law include:

- Identification and adoption of benchmarks to measure and evaluate administrative and instructional programs;
- Evaluation of student achievement within the charter school; and
- Evaluation of the school's organizational viability.

According to the National Association of Charter School Authorizers (NACSA), a non-profit organization devoted to improving the policies and practices of organizations responsible for authorizing charter schools,

a strong statewide structure for charter schools accountability is built upon two pillars: 1) A clear contract that plainly spells out the essential academic and operational performance standards and expectations the school must meet in order to earn the right to continue operating; and 2) A strong body of evidence built upon sound, multidimensional data that is collected, analyzed, and reported at least annually by the charter school authorizer over the term of the school's contract.

The DIP and ASE seem to function as the pillars for Hawai'i's accountability structure, with the DIP serving as the basis for a clear contract between the charter school and its school board and the panel, and the ASE providing the strong body of evidence to prove the school is carrying out its charter obligations. However, we found that instead of being parts of one accountability structure, these documents and the policies and procedures that have been developed around them are treated as separate entities with different functions and objectives altogether. For instance, contrary to the law, the panel does not consider the DIP to be the basis of a performance contract. Instead, the panel believes that the DIP only serves as the application for a charter. Once the charter is approved, the DIP is not reviewed again for six years until the school's charter is up for re-authorization.

Meanwhile, the panel uses the ASE as the primary tool for monitoring and reviewing charter school performance, even though, without an active DIP, there are no contract terms by which schools can be evaluated. Moreover, the panel has placed the responsibility for the collection, verification, and analysis of the data in the ASE with each local school board. Thus, the panel has removed itself from the charter school accountability structure. Without such outside oversight, the structure fails and accountability disappears.

***The panel's misinterpretation of state law has removed accountability from the charter school system***

While the charter schools law clearly states the definition and purpose of the DIP, the panel has its doubts as to whether the existing charter school DIPs are performance contracts and asked its deputy attorney general for an opinion. The deputy attorney general responded,

[I]f the DIP is defined pursuant to [Section] 302B-1 [HRS] as a performance contract between the panel and the charter school then I would argue that it is a performance contract. This is what the legislature had intended.

According to the panel chair, the panel-approved implementation plans are entirely different from the 27 plans approved by the elected BOE in earlier years. She also claimed that the BOE-approved charters did not have a performance element or contain specific performance measures similar to the current implementation plan. Other panel members stated

that many of the charter schools were approved by the BOE when there was no accountability and that the implementation plan serves more like an application.

We asked the panel why it does not require the schools to update their implementation plans to contain sufficient and measurable performance standards to serve as a basis for evaluating how well schools are performing in meeting minimum student performance targets. The panel chair stated that they are unsure if they have the authority to require schools to update their DIPs to be in compliance with applicable sections of the current law. According to the panel chair, because the panel does not have rulemaking authority, the charter schools are not required to follow their policies.

Section 302B-1, HRS, clearly states that charter schools must comply with all panel directives, policies, and procedures. Thus the law does provide the mechanisms for the panel to assure educational goals and student performance measures are met. But the panel has chosen not to require the local school boards to amend their implementation plans to incorporate essential academic student performance standards and expectations that are clearly defined and measurable.

Overall, there is general confusion among panel members regarding its authority over the public charter schools. While the panel chair acknowledged that the panel can revoke a school's charter, she expressed doubts as to whether it had the authority to force schools to report certain types of information. She further stated that the panel withheld allocations for some schools that were late in providing their financial audits. However, she said some unidentified schools threatened to sue the panel on grounds that such audits were not required. In addition, the panel chair stated that from 2000 to 2006, the charter schools had autonomy without accountability. She said it is now difficult for the charter schools to understand the panel's position.

According to panel members, they hold the local school boards accountable to ensure that the schools are meeting the requirements contained in their DIPs. One panel member said a local school board gives its assurance that it is reporting its school's progress on achieving the goals promised in its implementation plan. Although the local school boards are responsible for the academic viability of their charter schools, the panel in its capacity as the charter school authorizer is still ultimately responsible for ensuring the schools are meeting the minimum student performance standards established by the BOE.

**By law, charter schools are subject to the Board of Education's minimum academic performance standards for all publicly funded schools**

Hawai'i charter schools are subject to the BOE minimum performance standards that all public schools must meet or exceed. The BOE statewide performance standards for all public schools are the Hawai'i Content and Performance Standards. These standards define the essential content and skills that describe learning expectations for students—what they need to know and be able to do in core and extended core areas. In other words, the standards identify what is important for students to learn. The nine content areas are language arts, math, science, social studies, career and technical education, fine arts, health, physical education, and world languages.

Student attainment of the performance standards and other student achievements are measured via the Hawai'i State Assessment (HSA), which is applied throughout the charter schools and DOE school system. The assessment is designed to meet or exceed federal requirements under the No Child Left Behind Act (NCLB) and state requirements under Chapter 302A, HRS. The assessment also measures attainment of content and performance standards in reading, mathematics, and science, provides student and school achievement information to stakeholders, and supports program improvement. The Hawai'i State Assessment is administered in grades 3 through 8, and grade 10, and is the basis for determining a school's adequate yearly progress (AYP)—a minimum standard for improvement that all schools must achieve each year.

The No Child Left Behind Act, enacted in 2001, established school and state accountability mandates and reporting requirements for recipients of federal funds. The act also requires that all of a state's public schools, including its charter schools, must be subject to the same accountability system. In addition, core academic teachers are required to earn a federal designation of "highly qualified teacher" (HQT). This means that highly qualified public charter school teachers must hold a bachelor's degree, be fully licensed to teach in the State of Hawai'i, and must demonstrate competence in the core academic areas taught, and they must do so in the same manner as teachers in all other public schools.

**The panel does not know whether charter school DIPs comply with applicable laws or best practices**

In 2009, the panel adopted the application for charter schools implementation plan template for new charter school applicants, incorporating NACSA best practice elements to clearly define performance standards with measurable indicators, measures, metrics,

and targets. The template requires that the charter schools' assessment system:

- Provide how achievement data will be collected, used, and reported;
- Indicate whether, in addition to administering the Hawai'i State Assessment tests, the school will use additional assessment tools to determine and report student progress;
- Describe which instruments will be created to measure and report student progress; and
- Explain why these assessments were selected for the targeted student population.

The template further requires that an assessment system describe how assessment and achievement information will be reported (indicating the audiences to receive the information and frequency of reporting), and explain how assessment data will be used to plan staff development that will support the goals of improved student learning. The template is designed to be used by local school boards applying for new charters with the panel per the panel's policies and procedures.

While the panel has identified the need for measurable indicators, metrics, and targets, it has not held existing schools to the same level of accountability. The panel informed us that it has neither analyzed nor assessed whether the 31 charter schools' implementation plans comply with applicable laws or best practices.

By not requiring the majority of the charter schools' implementation plans to establish clear student performance expectations, the panel lacks the means to assess whether the schools are adequately meeting student performance outcomes. As a result, the panel is failing to hold the schools accountable for the performance of their students. Are the charter schools improving student learning? Are charter schools an equal or better use of public moneys than DOE-run schools? The panel does not know.

In the absence of panel-led data collection, we tested ten charter school DIPs against the template. We found that the DIPs did not consistently identify student performance metrics. Eight schools did not include a plan to meet the federal NCLB requirements for highly qualified teachers incorporated in the BOE's minimum performance standards. One school's implementation plan did not provide any details for measuring student performance at all. Rather, it stated that the school "will research carefully where to find or develop appropriate assessment instruments for

the content standards and for assessing student progress on the [school's] goals.” In other words, at the time of the public charter school's inception, its founders could not articulate, much less promise, how its students and its school would be measured.

The panel plans to look into having charter schools update their DIPs when it reauthorizes schools, which is part of its obligation to ensure charter schools are following the law. Starting this year, the panel is scheduled to reauthorize charter schools each year on an interval amended by Act 130, SLH 2011. The act extended the frequency of reauthorization to six years from the former five years.

According to NACSA, a key requirement for a strong statewide structure for charter school accountability is a credible body of evidence that is collected, analyzed, and reported at *least annually* by the authorizer to rigorously *measure student academic growth over time*. Such measuring and reporting are necessary, because they reveal what schools are accomplishing or not accomplishing with their students. Providing the status of a particular grade in a particular year provides only a “snapshot” that reveals little about how a school is improving—or not improving—according to NACSA. Instead, rigorously measuring student academic growth over time is necessary to reveal what schools are accomplishing or not accomplishing with their students. Thus, by evaluating and requiring Hawai'i's public charter schools to update their implementation plans on a six-year cycle, the panel cannot assure that the charter schools have the most current, essential, and measurable student academic performance standards with which to assess the schools' effectiveness in meeting student performance targets.

***Panel lacks an accountable and robust process for measuring student academic growth***

Hawai'i's Charter School Review Panel lacks a sound model or process for measuring student academic growth that requires sound data analysis, which are essential components of a strong performance accountability system for charter schools. Moreover, the panel has surrendered its oversight responsibilities by relying on the local school boards to ensure the charter schools are providing accurate and complete data. As a consequence of the local school boards' lax oversight, the charter schools' student performance data that is proffered is meaningless.

On a year-to-year basis, the panel relies only on the public charter schools' annual self-evaluation. But the ASE contains data that is not reliable and meaningful. Furthermore, what the panel does with these flawed ASE reports leaves it with no basis for holding charter schools accountable for meeting statewide student performance standards. We conclude that public charter schools are not being held accountable for their students' learning.

### **Panel does not collect, analyze, and verify ASE data**

Every public charter school is required to submit the prescribed ASE. Among other mandates, the ASE must include an evaluation of student achievement. The ASE is the panel's primary tool to evaluate and monitor whether schools are meeting their goals for student performance. In May 2009, the panel developed an ASE template through which schools report on four areas of responsibility: faithfulness to charter, educational viability, organizational/administrative viability, and financial viability. However, the panel did not provide the schools with instructions or guidance to the ASE template.

To assess the overall effectiveness of charter schools in meeting performance standards for public schools, we analyzed the panel's assessments of ten charter schools' ASEs for SY2009-10. We found many deficiencies in the panel's evaluation process.

The panel's Accountability Committee reviews the charter schools' ASE reports and provides feedback to the schools on strengths and weaknesses. The charter schools are also required to provide clarification to any issues identified by the committee. The committee's review of the self-evaluation involves comparing what the schools say they will do to what was done and whether there is actionable improvement from the last annual self-evaluation and if there are inconsistencies.

According to NACSA's policy guide, *Charter School Performance Accountability*, authorizers should be responsible for collecting, analyzing, and reporting performance data for schools they oversee and not rely on a school's self-reporting of unverified data or its calculations of student academic growth. Further, authorizer responsibility for these critical tasks is necessary to ensure data accuracy as well as consistent, rigorous methodology of data analysis across schools.

We found that the panel does not verify and analyze the schools' ASE data for accuracy and completeness, nor does it collect its own data to measure student performance. For example, the ASE requires the schools to provide the Hawai'i State Assessment results by grade. This information could easily be collected from the DOE by the panel, thus ensuring the data's integrity. Instead, the panel chooses to request this information from the charter schools, which we found did not report the test results consistently and completely. The panel members explained that the panel has neither the time nor the resources to collect its own data.

In addition, the panel does not provide guidance or specific instructions for completing the ASE. As a result, one school principal told us that he prepared a section of the ASE "off the top of [his] head" because he



was left to interpret what the panel wanted. If the panel does not give the charter schools instructions, it cannot assure that the information it receives back is relevant and uniformly reported. The panel should develop ASE guidelines built on updated detailed implementation plans approved by the panel.

We also found the panel's feedback on each school's SY2009-10 ASE was meaningless. For example, for areas of improvement, the panel responded: "continue efforts to raise math scores," "continue to increase the number of HQT," and "consider overlapping local school board member's terms." The schools themselves questioned the effectiveness of the panel's ASE process. One school director commented to us that the ASE contains generic data and is not a vehicle with which to evaluate a school's performance. The director claimed that the self-evaluation is not useful. The panel's Accountability Committee chair stated the intent is for schools to evaluate themselves. In other words, the ASE is just that, a "self" evaluation.

Although the panel claims that it lacks resources, according to the law, it has authority over the Charter School Administrative Office, which is responsible for the management of the charter school system. Therefore, the panel should require that the office provide assistance in the ASE evaluation process. For example, the office can collect and verify the Hawai'i State Assessment test results, which are easily accessible from the DOE.

### **Local school boards' lax oversight results in meaningless student performance data**

Each local school board is responsible for the academic viability and the management of its respective public charter school. The panel relies on the local school boards to assure the quality and accuracy of the data and the reports that are submitted to the panel. Every local school board chair and school director or principal is required to sign off on the ASE, evidencing their approval and verifying for accuracy. Given the inconsistencies and inaccuracies we found among the ASEs, it is evident that the local school boards' oversight of student performance is lax.

Although best practices warn authorizers not to rely on a school's self-reporting, local school boards are not relieved of responsibility for effective oversight. Every local school board is accountable for the academic performance of its students.

In our ten-school sample, we found no consistency between the ASE data and the supporting documents. For example, the ASE asks for the enrollment totals on the official October count date for trending purposes. The October student count is significant because it is used to



calculate the amount of funding a charter school receives for the school year. We found that four schools' documentation did not support the numbers reported in their ASEs. One school reported 549 students in the ASE but its supporting document indicated an enrollment of 521—a difference of 28 students. The discrepancy could be significant. The per-pupil allocation for SY2009-10 was about \$5,753. Twenty-eight students multiplied by the allocation equals \$161,084, an amount for which the charter school could not provide proof. The staff could not explain the discrepancy between the numbers reported in their ASE and the supporting document. In addition, the charter schools in our sample differed in the supporting documentation for their ASE numbers. Some schools provided us with actual enrollment lists, others with DOE reports.

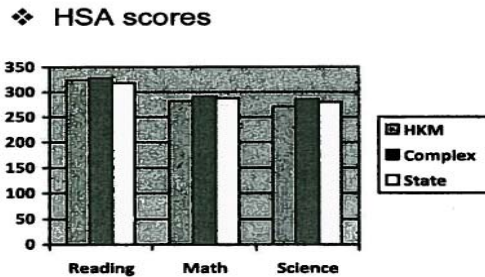
We also found that charter schools could not provide supporting documentation for key aspects of their ASEs. For example, the panel views a large waiting list as an indicator that there is a need for charter schools in the community. We found that three schools had no documentation available to support the waitlisted numbers in their ASE. At one school, instead of providing a waitlist, the registrar reported that its student body of 86 students intended to return for the following school year. When asked, he could not recall why the information was given and agreed it was inaccurate.

### **Inconsistent and misleading reporting of performance data misrepresents school and student achievement**

We found that some schools submitted ASEs that omit critical data or presented information in misleading ways. For example, to meet the panel's student performance requirement, the ASE requires "three indicators of student achievement including at least one qualitative and one quantitative sample in the form of graphs and/or narrative." Some of the preferred indicators include test scores from the Hawai'i State Assessment, Hawaiian Aligned Portfolio Assessment (HAPA), TerraNova, and the Northwest Evaluation Association (NWEA). To fulfill this requirement, Hālau Kū Māna, a public charter school in the Roosevelt complex on O'ahu, submitted the following information shown in Exhibit 2.1:

## Exhibit 2.1

## Hālau Kū Māna Hawai'i State Assessment Scores



The chart above depicts HSA scores for 2009-2010 for the areas of reading, math and science. HKM's reading score is 324, higher than the state average and slightly lower than the complex. Overall, HKM is making steady progress in the language arts program and is consistently raising and/or maintaining adequate HSA scores.

In the area of math, our school scored 282. While the school has met its internal 10% proficiency goal, we are still under proficiency compared to state and complex levels by 9 to 10 points. Math remains our primary area of concern.

Science scores were placed at 271, meaning that we are well below proficiency. Science remains another area of concern.

While HKM is not yet proficient in science and math, the point spread represented in the chart is relatively narrow. Our school is focused on meeting AYP through quality benchmark-driven instruction, targeted intervention, and focused test preparation.

Source: Hālau Kū Māna

The above presentation seems straightforward, with the school reporting that its students boast a reading score that is higher than the state average. Hālau Kū Māna's math and science scores were below state proficiency levels, but the text notes that the gap between its math and science scores and state proficiency standards are "relatively narrow," giving the impression that the school is close to achieving proficiency.

However, the chart and text are misleading. The chart and narrative actually describe only the test results of Hālau Kū Māna's tenth graders, of which 89 percent were proficient in reading. The school's other grades did not fare as well. Reading proficiency for Hālau Kū Māna's middle schoolers ranged from 13 percent to 50 percent.

Also unnoticed was a significant drop in Hālau Kū Māna's student enrollment count, which is considered by the panel to be an important indicator of school performance. In the school's ASE, school officials reported that Hālau Kū Māna's student count dropped from 130 to 86, a

34 percent decline. The explanation for the drop off simply reads, "...due to dissatisfaction with the administration and an incompatibility with the schools' educational philosophy and approach." There is no additional text that details the nature of the "dissatisfaction" and "incompatibility" or explains if and how these problems were resolved.

The panel did not take note of Hālau Kū Māna's significant drop in student enrollment, a clear indicator of possible problems. Instead, the panel's "feedback" consisted of eight bulleted items organized around the ASE's perceived strengths and weaknesses, as reproduced below. Listed as a strength was Hālau Kū Māna's "clear enrollment statistics" shown in Exhibit 2.2.

## Exhibit 2.2

### Charter School Review Panel Feedback on Hālau Kū Māna Annual Self-Evaluation

#### **Halau Ku Mana New Century PCS 2009-2010 Annual Self Evaluation Feedback**

##### **Strengths of Self Evaluation:**

- Clear description of Mission and goals including the instructional goals
- Concise descriptions of instructional goals, objectives, benchmarks, and methodology
- **Clear enrollment statistics**
- Effective improvement indicators of student achievement

##### **Areas to Consider for Improvement:**

- Provide an update on progress toward meeting HQT requirements
- Provide information on the enrollment increases or decreases due to the clarification of roles and the improved administration
- Provide a detailed description of the use of assessment data to improve student learning
- Provide a more detailed description of the many innovative practices at the school

Source: Hālau Kū Māna Public Charter School

We found another public charter school's ASE lacked any current data in its supporting documentation. For its SY2009-10 ASE, the Myron B. Thompson Academy submitted a chart that is supposed to display its students' scores on the HSA test for reading, mathematics, science, and writing, as well as scores from the TerraNova test on writing and math. However, the chart does not contain SY2009-10 scores for either test, and there is no accompanying text to explain their absence. Note our highlighted blanks in the example of the chart shown in Exhibit 2.3.

**Exhibit 2.3**  
**Myron B. Thompson Academy Hawai'i State Assessment Scores**

Grade	Year	HSA Reading: Percent Proficiency		HSA Mathematics: Percent Proficiency		HSA Science Percent Proficiency		HSA Writing: Percent Proficiency		TerraNova: Reading % Avg. & Above		TerraNova Math % Avg. & Above	
		School	State	School	State	School	State	School	State	School	State	School	State
3	2007-08	%	61.9%	52.6%						73%		74%	
	2008-09	60 %	62%	13 %						44%		31%	
	2009-10	%		%						%		%	
4	2007-08	61.4%		49.0%						77%		76%	
	2008-09	74%		52%						62%		53%	
	2009-10	%		%						%		%	
5	2007-08	%	56.7%	44.0%						79%		78%	
	2008-09	77%		39%						62%		56%	
	2009-10	%		%						%		%	
6	2007-08	57.2%		42.1%						77%		73%	
	2008-09	82%		32%						58%		59%	
	2009-10	%		%						%		%	
7	2007-08	64.3%		40.2%						70%		72%	
	2008-09	70%		33%						49%		42%	
	2009-10	%		%						%		%	
8	2007-08	65.6%		34.7%						80%		76%	
	2008-09	94%		50%						72%		73%	
	2009-10	%		%						%		%	
9	2007-08												
	2008-09												
	2009-10												
10	2007-08	%	67.4%	34%						77%		75%	
	2008-09	100%		32%						63%		60%	
	2009-10	%		%						%		%	
11	2007-08												
	2008-09												
	2009-10												

Source: Myron B. Thompson Academy

The omissions apparently went unnoticed by the panel, since it did not make note of them in its response to the school. Instead, the panel's ten-bullet feedback listed as one of the ASE's strengths the "detailed analysis of assessment data."

We also found numerous instances in which charter school staff excluded data from their ASEs. Apparently, these omissions also went unnoticed by the panel, since there was no mention of the missing data in its responses to the schools. The inadequate monitoring and accountability may be allowing schools to hide unsatisfactory performance. In such an environment, poor student outcomes cannot be objectively identified, addressed, and eventually remedied.

### **Panel lacks support from its administrative office to carry out its critical functions**

The panel claims that it does not have the resources or time to validate and analyze the data contained in the self-evaluations nor do the members collect their own data. In our review of the information contained in the ASEs for the ten charter schools in our sample, we visited the schools and requested the supporting documents that were used to compile the information. We then compared those documents with the information reported in the ASE. We also interviewed school staff to gain an understanding of their process. The same work that we performed in verifying the data in the ASEs could be done by the panel through staff support from the office.

The panel maintains that the law is ambiguous regarding the office's responsibility to the panel. We disagree. Sections 302B-3 and 302B-8, HRS, clearly specify the panel's and office's responsibilities. In addition to its authorizer powers and duties, the panel is empowered to hire the executive director and may terminate the director for cause. The panel approves the executive director's hiring of staff for the office. In addition, under the direction of the panel, the executive director is responsible for the internal organization, operation, and management of the public charter school system.

Moreover, the charter school law requires the administrative office to serve as the conduit in disseminating communications from the panel to all charter schools, as well as to provide guidance and assistance to charter schools to enhance the completeness and accuracy of information for panel review, including the ASE. The panel with the assistance of the office can also collect its own data for measuring student performance—tools to supplement or stimulate information available at the charter school level. Between the panel and the office there should be deeper and broader resources available to the public charter schools, such as national organizations like NACSA, National Resource Center on Charter School Finance and Governance, and the Center for Education Reform.

### **Panel's reporting is unclear on charter schools meeting the minimum academic requirements**

According to the Center for Education Reform, an educational reform advocacy organization, choice is one of the guiding principles under which public charter schools operate (freedom and accountability being the other two). Charter schools expand the choices for students within the public school system and should provide more customized teaching and learning opportunities for teachers and students. Therefore, when selecting a school, parents need to base those decisions on reliable data and transparent presentations of the information. As our previous analysis showed, the self-evaluations in place do not provide objective, reliable data in an accessible way.

In the face of this information vacuum, and to demonstrate in a small way how the analysis of available data could proceed, we did a trend analysis of key performance measures for DOE schools and public charter schools in the areas of the Hawai'i State Assessment, highly qualified teachers (HQT), graduation rates, adequate yearly progress (AYP), and enrollment. Except for enrollment these metrics are the requirements of the federal No Child Left Behind (NCLB) law, and every public school—charters included—are required to report them.

Our analysis of statewide and selected ten charter school data is presented below in Exhibit 2.4, *Statewide and Charter School Data*, on pages 28 through 38.

Data for DOE schools and all 31 public charter schools were obtained from the DOE website and personnel. We compared each of the ten charter schools in our sample to the DOE schools that are geographically located within the nearby DOE complex. According to the DOE, a complex consists of a high school and intermediate/middle and elementary schools that feed into it.

The HQT data are the percentage of classes taught by highly qualified teachers. Highly qualified as defined by NCLB means that every class or period in a core subject area is taught by a teacher licensed in that core subject.



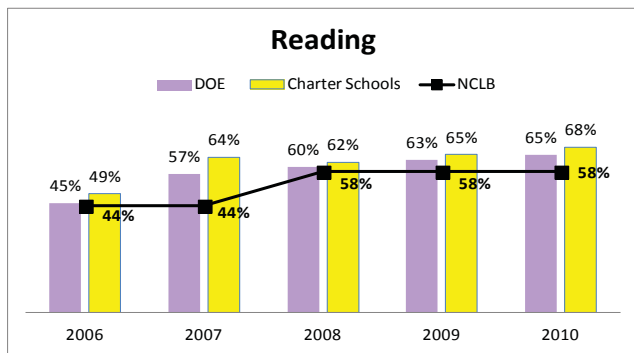
Exhibit 2.4

Hawai'i Public Charter Schools

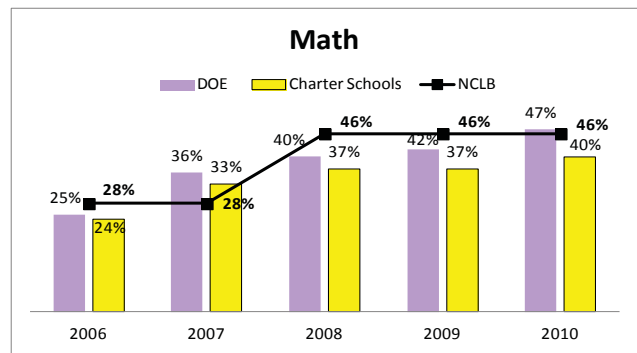


**Public Charter Schools Information SY2009-10**

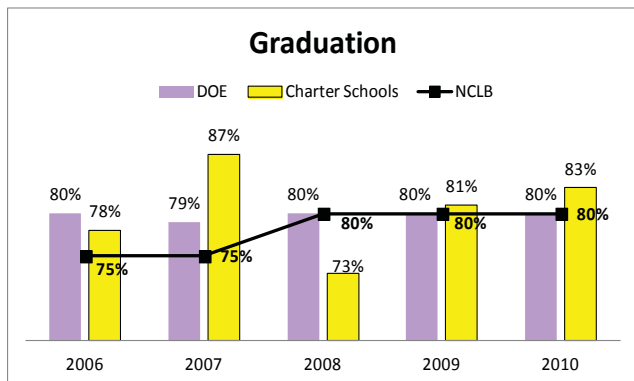
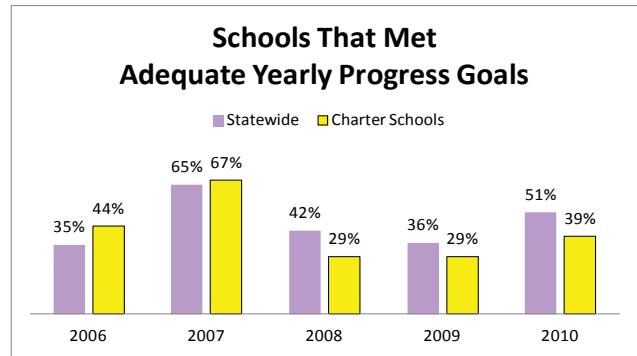
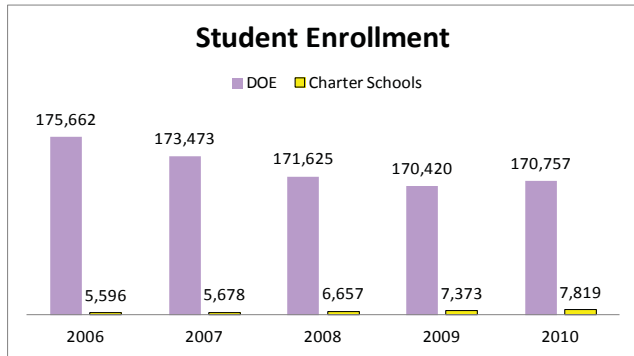
No. of Charter Schools: 31  
 No. of Students Attending Charter Schools: 7,819  
 Budget: \$74.7 million



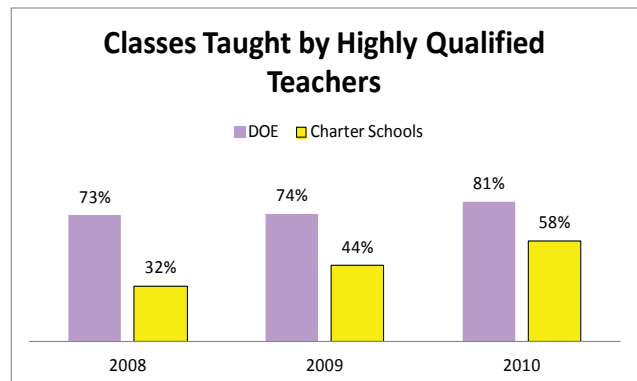
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.



Data not available for 2006 and 2007.

Exhibit 2.4

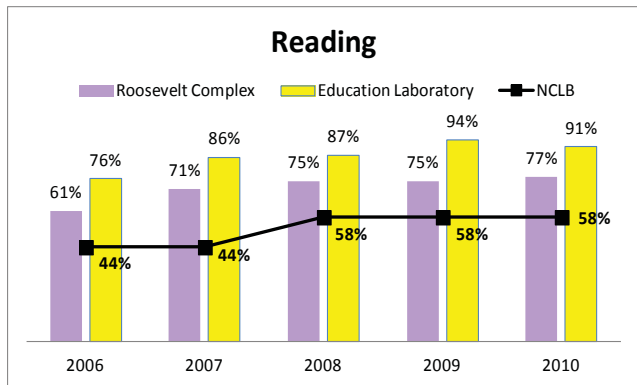
Education Laboratory Public Charter School



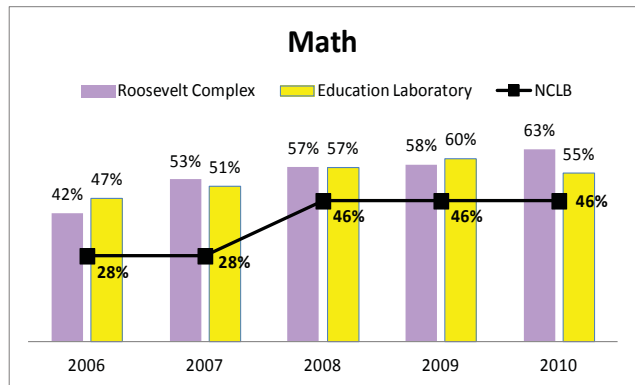
School Information

Type of Charter: Start-up  
 Charter School Focus: Educational Research  
 Grades Enrolled : K-12  
 Enrollment SY2009-10: 431

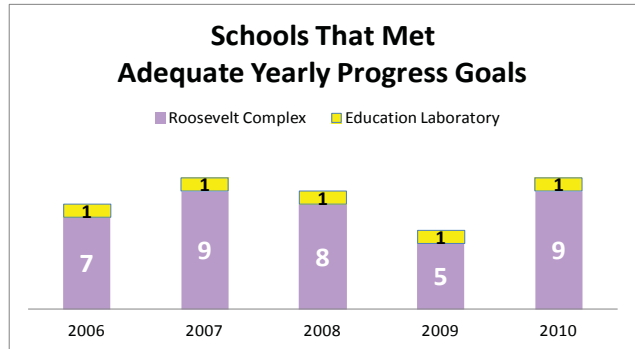
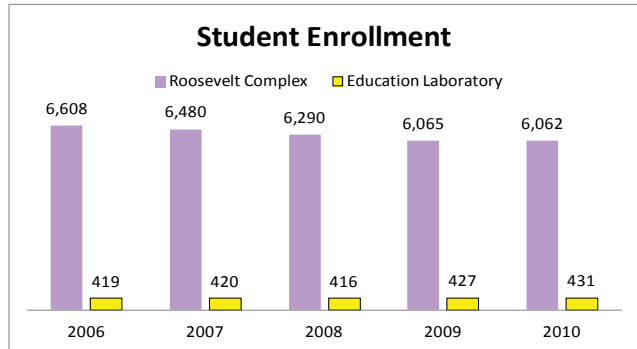
*The Education Laboratory is a public school that operates in partnership with the University of Hawai'i. While it was established as a charter school in 2001, its mission and overall structure has remained unchanged since 1966. Geographically located within the ten-school Roosevelt complex, Education Laboratory, like all charter schools, is not a part of the DOE system. It draws its students from locations across O'ahu.*



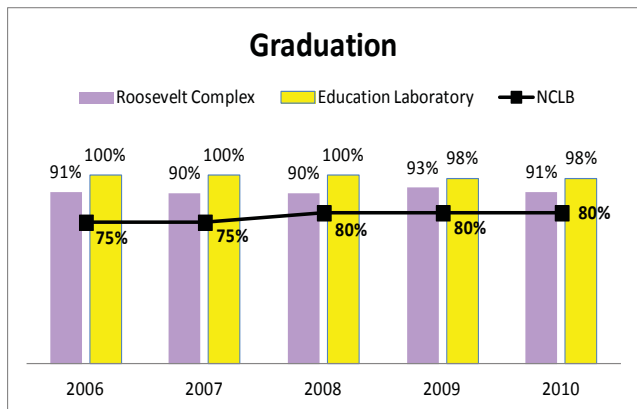
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



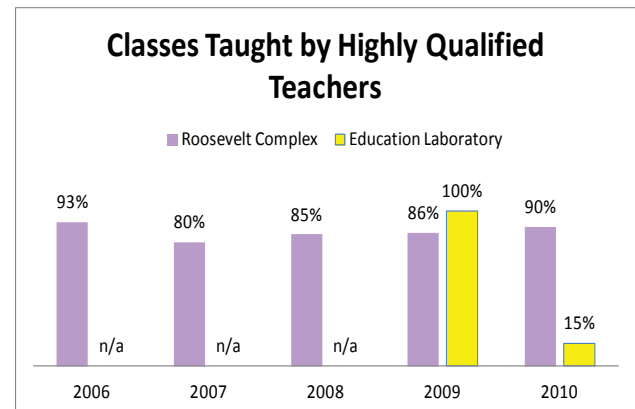
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



Education Laboratory met No Child Left Behind adequate yearly progress goals each of the past five years.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.



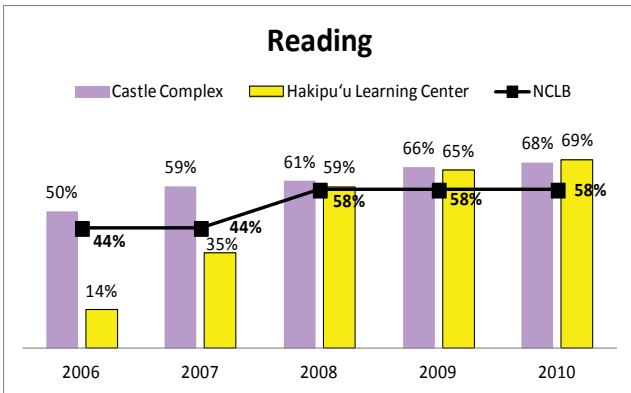
**Exhibit 2.4 Hakipu'u Learning Center Public Charter School**



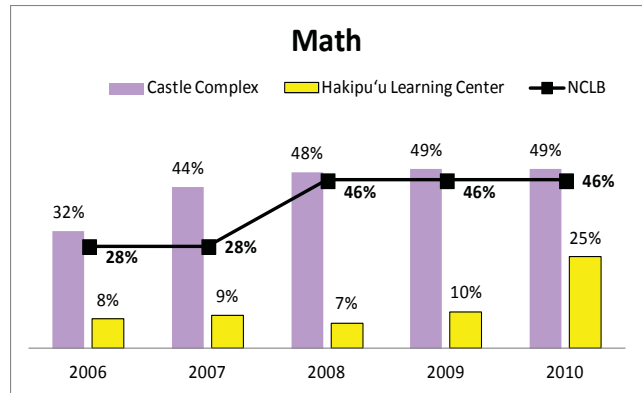
**School Information**

Type of Charter: Start-up  
 Charter School Focus: Environmental Stewardship, Hawaiian, and Project Based Learning  
 Grades Enrolled: 4-12  
 Enrollment SY2009-10: 77

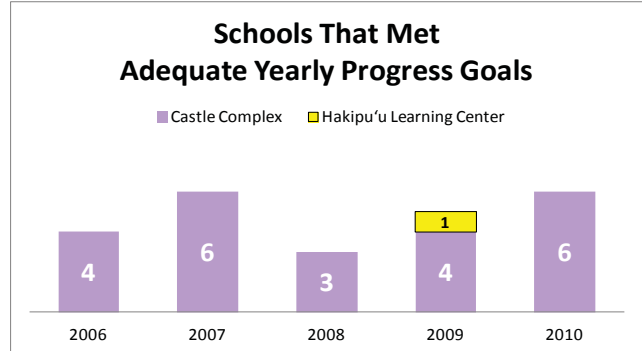
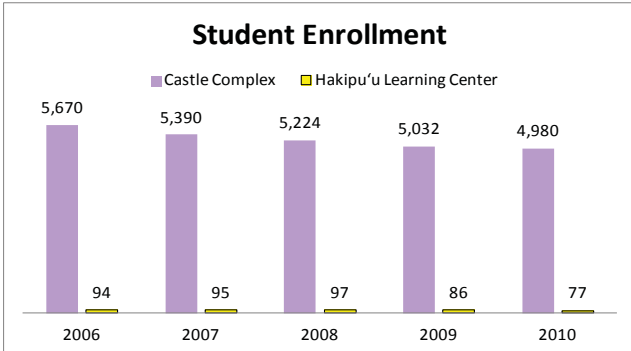
*Hakipu'u Learning Center was established in May 2001. Geographically located within the ten-school Castle complex, Hakipu'u, like all public charter schools, is not a part of the DOE system.*



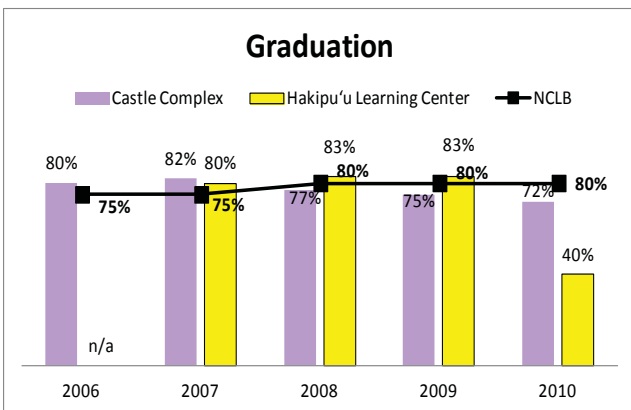
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



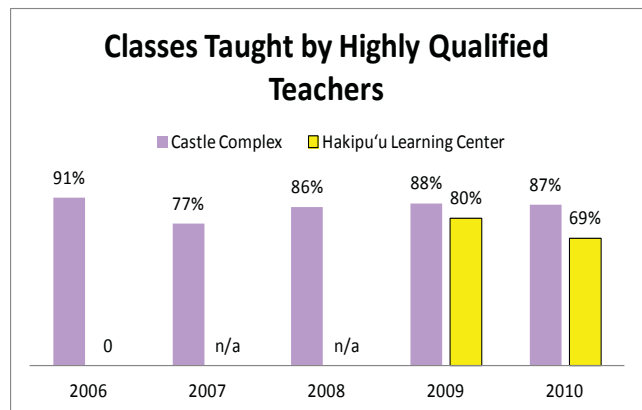
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



Hakipu'u met No Child Left Behind adequate yearly progress goals in 2009.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent. Data for Hakipu'u for 2006 is not available.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

Exhibit 2.4

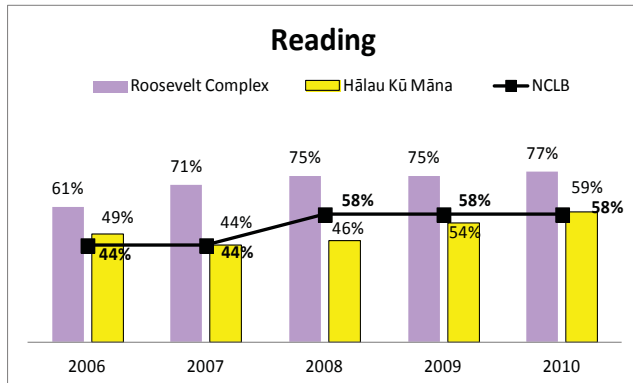
Hālau Kū Māna Public Charter School



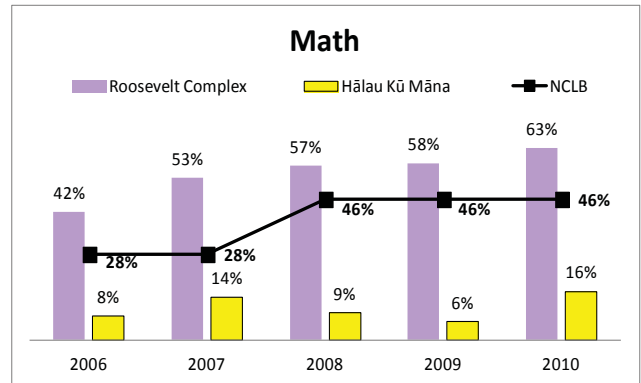
**School Information**

Type of Charter: Start-up  
 Charter School Focus: Environmental Stewardship, Hawaiian, and Project Based Learning  
 Grades Enrolled: 6-12  
 Enrollment SY2009-10: 99

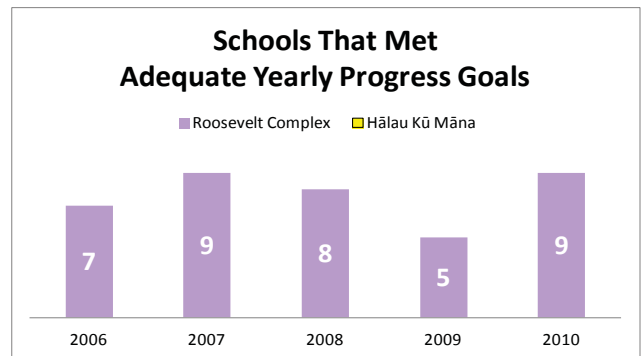
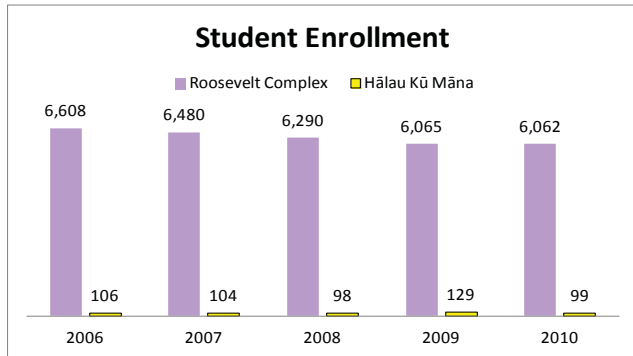
*Hālau Kū Māna was established in December 2000. Geographically located within the ten-school Roosevelt complex, Hālau Kū Māna, like all public charter schools, is not a part of the DOE system.*



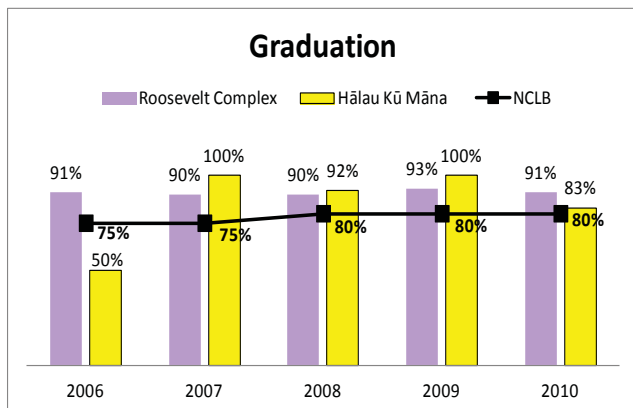
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



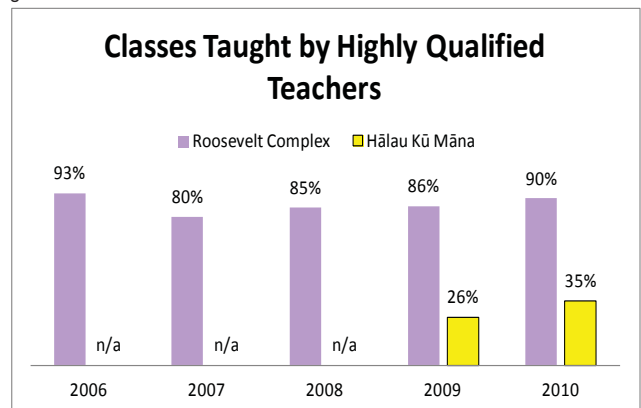
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



Hālau Kū Māna has not met No Child Left Behind adequate yearly progress goals.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

**Exhibit 2.4 Hawai'i Academy of Arts and Science Public Charter School**

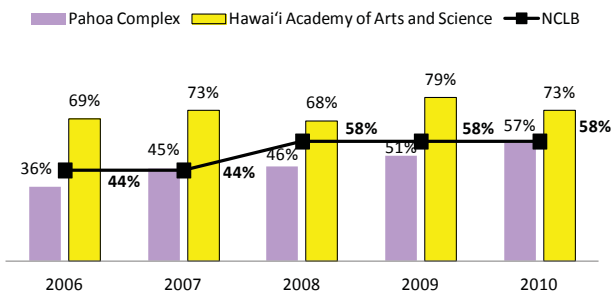


**School Information**

Type of Charter: Start-up  
 Charter School Focus: Arts, Sciences, Project Based Learning, and STEM (science, technology, engineering, and math)  
 Grades Enrolled: K-12  
 Enrollment SY2009-10: 432

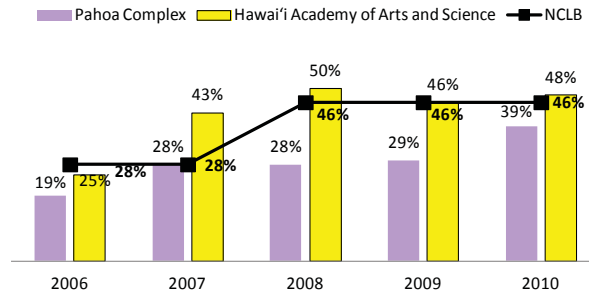
*The Hawai'i Academy of Arts and Science (HAAS) was established in June 2001. Geographically located within the three-school Pahoa complex, HAAS, like all public charter schools, is not a part of the DOE system.*

**Reading**



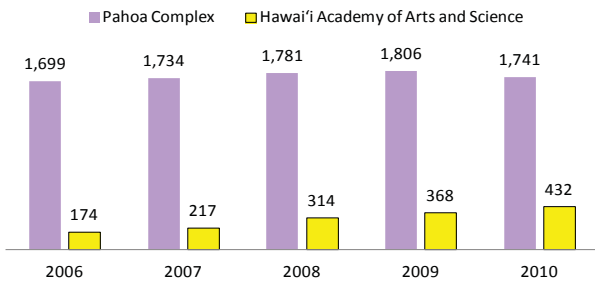
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.

**Math**

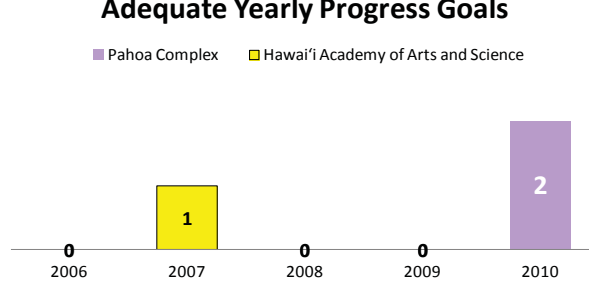


To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.

**Student Enrollment**

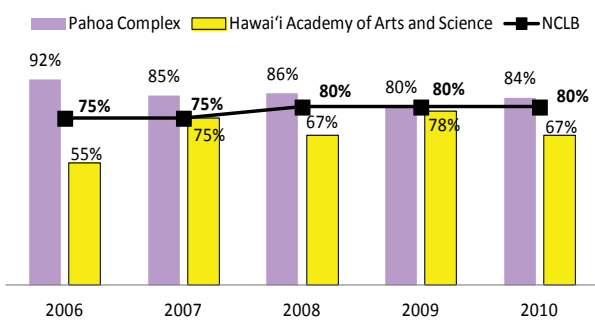


**Schools That Met Adequate Yearly Progress Goals**



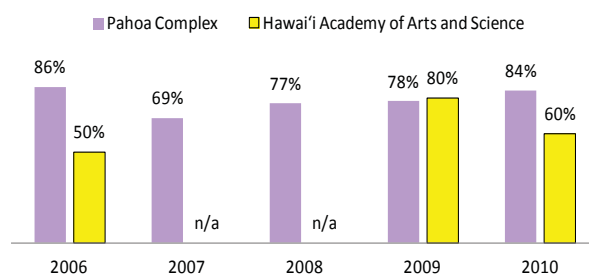
Hawai'i Academy of Arts and Science met No Child Left Behind adequate yearly progress goals in 2007.

**Graduation**



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.

**Classes Taught by Highly Qualified Teachers**



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

Exhibit 2.4

Hawai'i Technology Academy Public Charter School



**School Information**

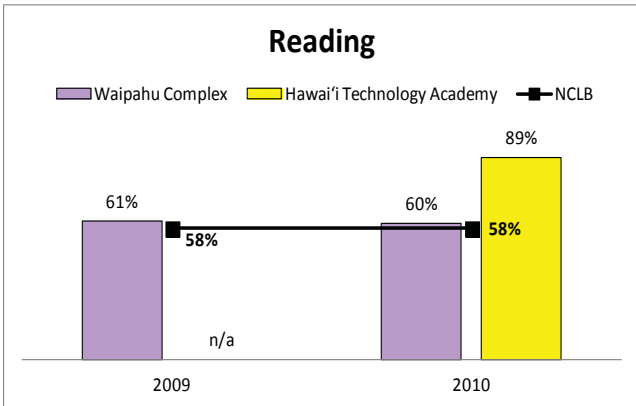
Type of Charter: Start-up

Charter School Focus: Hybrid/Virtual Learning, and STEM (science, technology, engineering, and math)

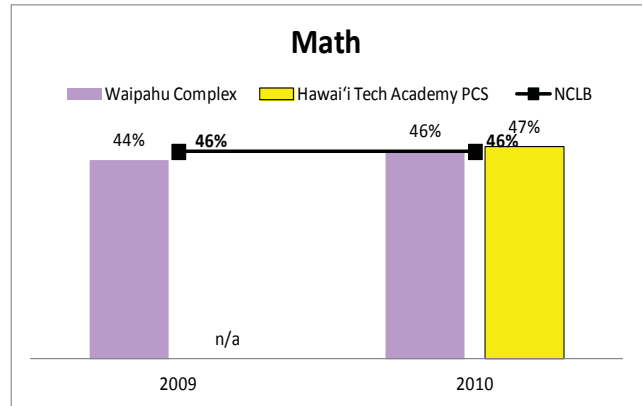
Grades Enrolled: K-12

Enrollment SY2009-10: 486

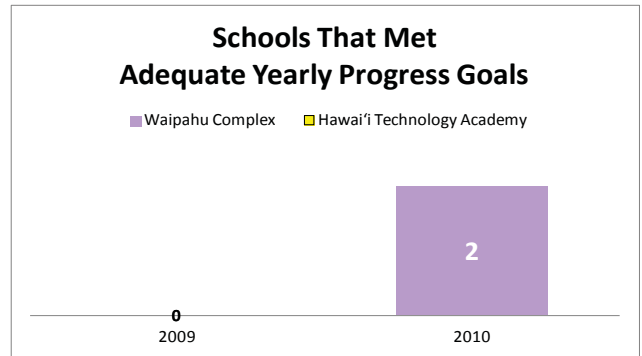
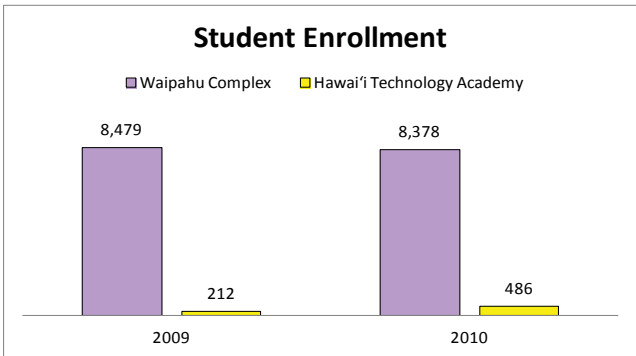
*The Hawai'i Technology Academy (HTA) was established in April 2008. Geographically located within the seven-school Waipahu complex, HTA, like all public charter schools, is not a part of the DOE system.*



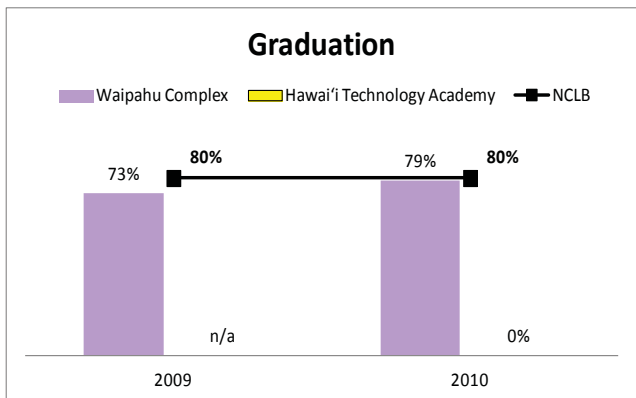
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. Data for Hawai'i Technology Academy for 2009 is not available.



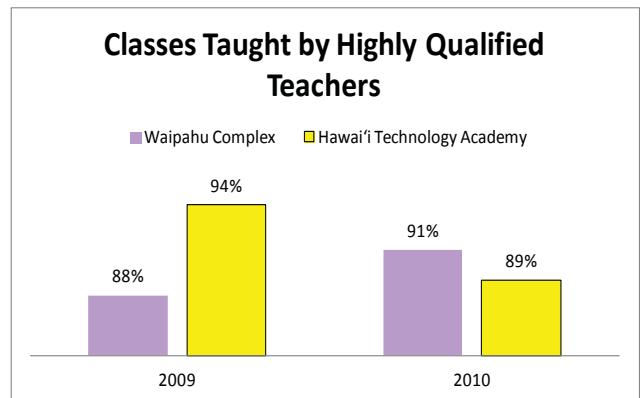
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. Data for Hawai'i Technology Academy for 2009 is not available.



Data for Hawai'i Technology Academy for 2009 is not available.

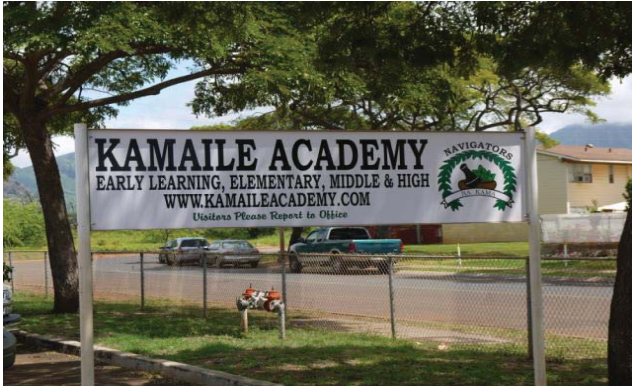


To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. Data for Hawai'i Technology Academy for 2009 is not available.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

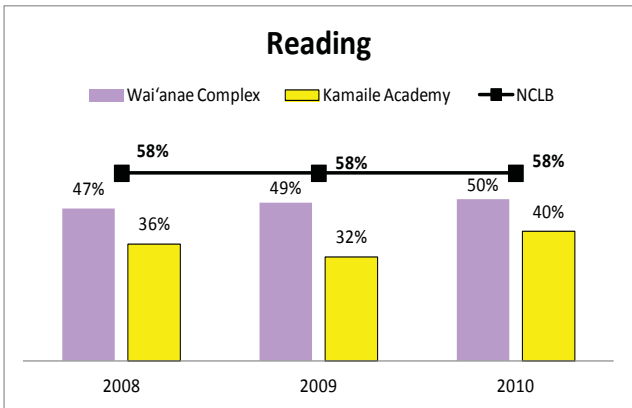
**Exhibit 2.4 Kamaile Academy Public Charter School**



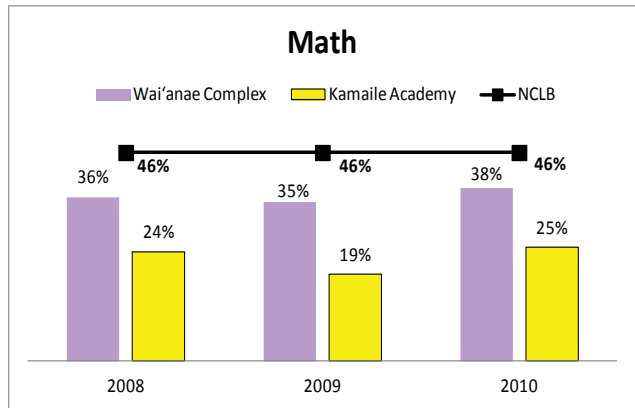
**School Information**

Type of Charter: Conversion  
 Charter School Focus: not provided  
 Grades Enrolled: K-9  
 Enrollment SY2009-10: 722

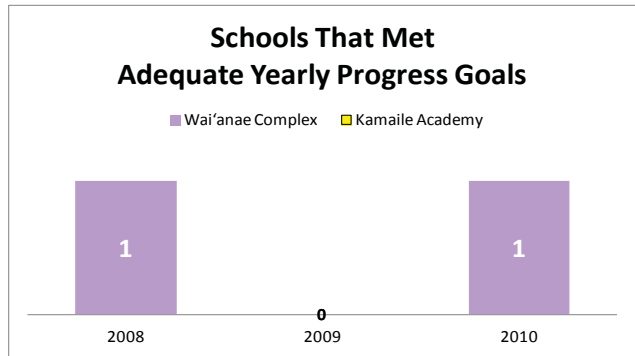
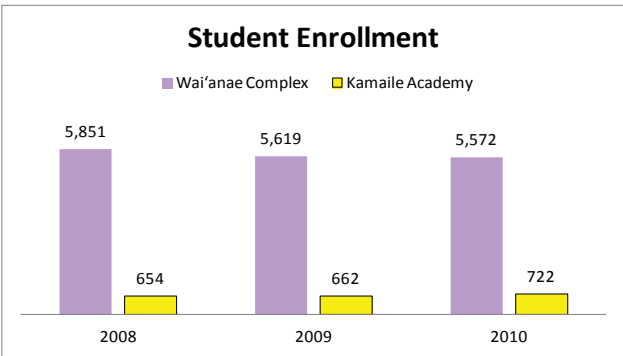
*Kamaile Academy was established in August 2007. Geographically located within the six-school Wai'anae complex, Kamaile, like all public charter schools, is not a part of the DOE system.*



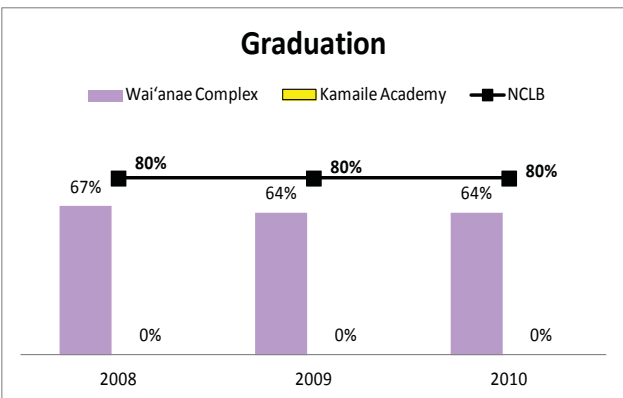
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading.



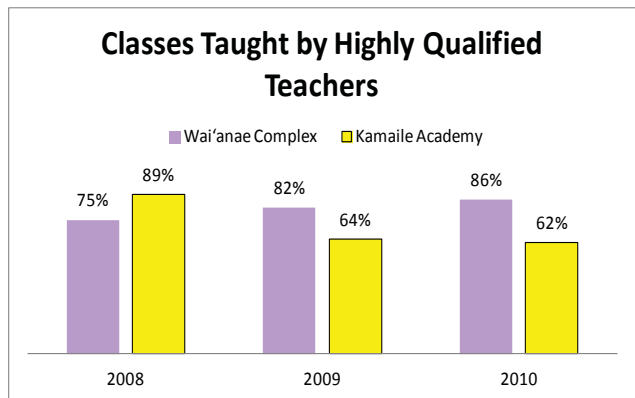
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math.



Kamaile has not met No Child Left Behind adequate yearly progress goals.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. Kamaile enrolls grades K-9 and does not graduate a class.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.



Exhibit 2.4

Kanu o ka 'Āina Public Charter School



**School Information**

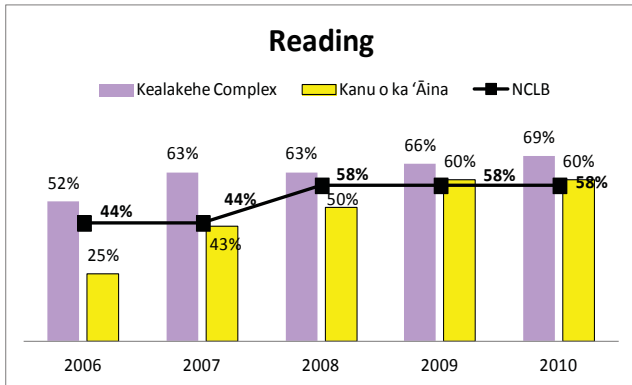
Type of Charter: Start-up

Charter School Focus: Environmental Stewardship, Hawaiian, Project Based Learning, and Educational Research

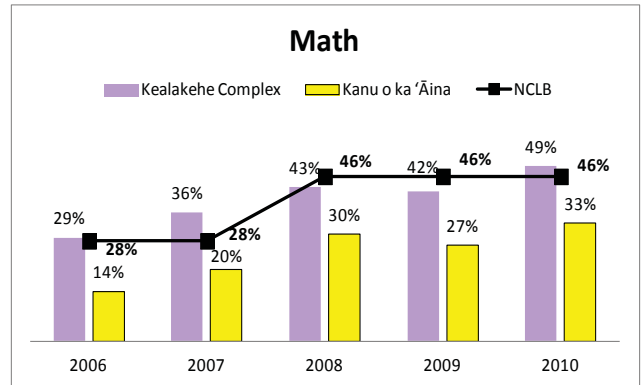
Grades Enrolled: JK-12

Enrollment SY2009-10: 215

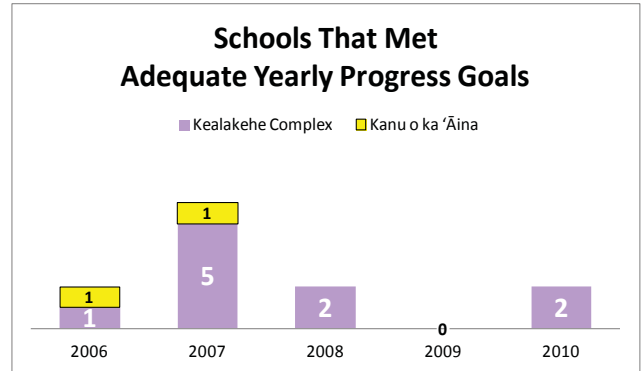
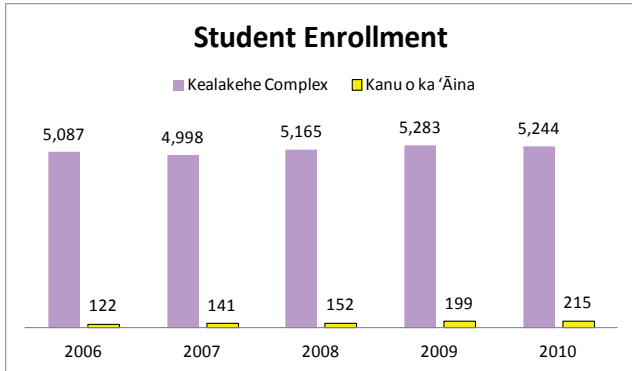
*Kanu o ka 'Āina was established in May 2000. Geographically located within the six-school Kealakehe complex, Kanu o ka 'Āina, like all public charter schools, is not a part of the DOE system.*



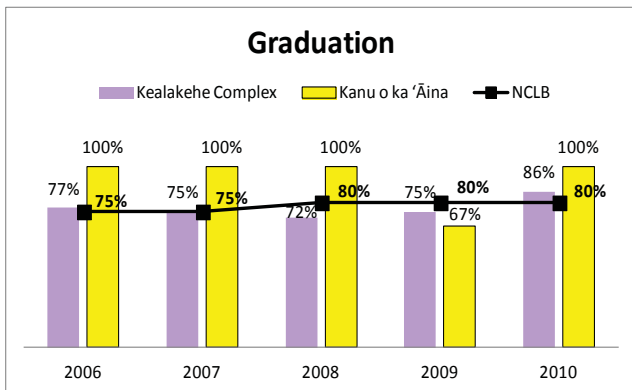
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



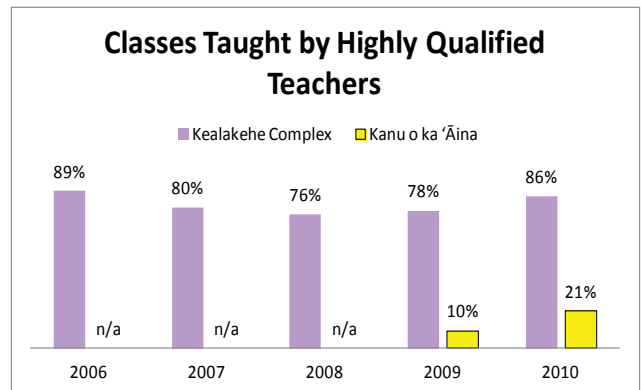
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



Kanu o ka 'Āina met No Child Left Behind adequate yearly progress goals in 2006 and 2007.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.



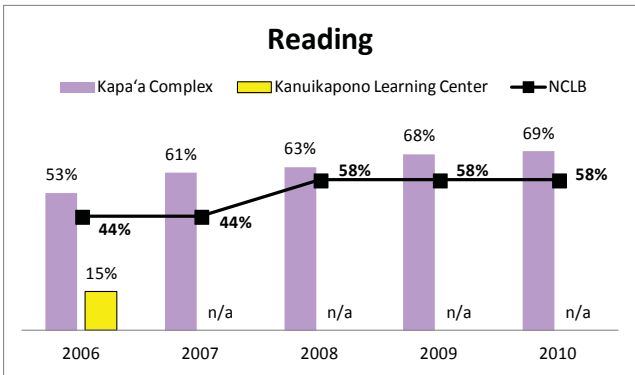
Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

**Exhibit 2.4 Kanuikapono Learning Center Public Charter School**

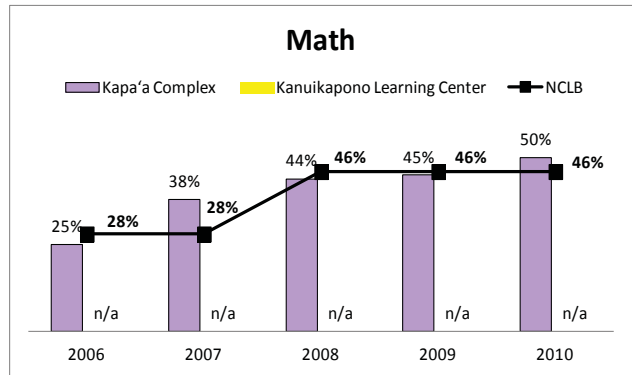


**School Information**

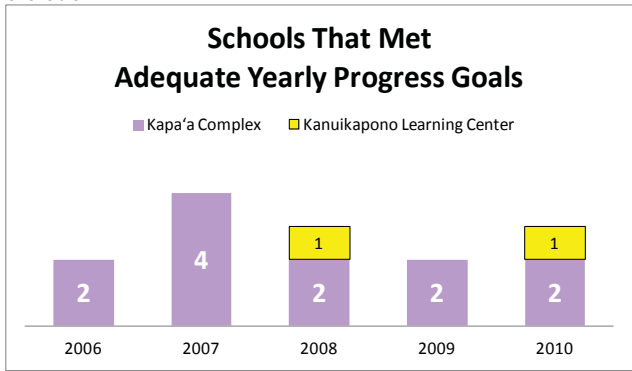
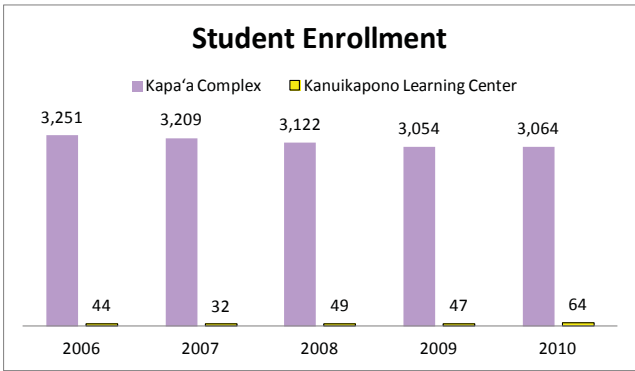
Type of Charter: Start-up  
 Charter School Focus: Environmental Stewardship, Hawaiian, Hawaiian Bilingual, and Project Based Learning  
 Grades Enrolled: K-12  
 Enrollment SY2009-10: 64  
*Kanuikapono Learning Center was established in August 2001. Geographically located within the five-school Kapa'a complex, Kanuikapono, like all public charter schools, is not a part of the DOE system.*



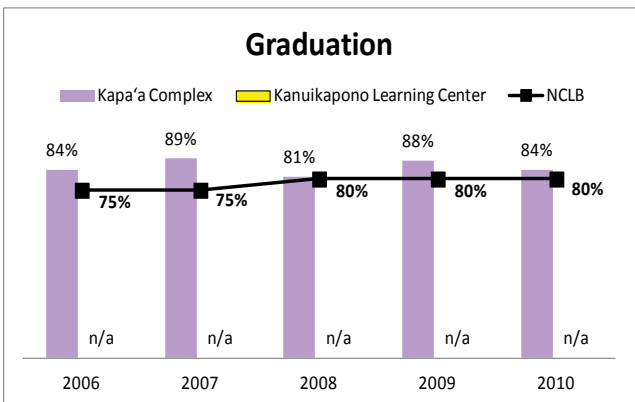
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent. Data for Kanuikapono for 2007-2010 is not available.



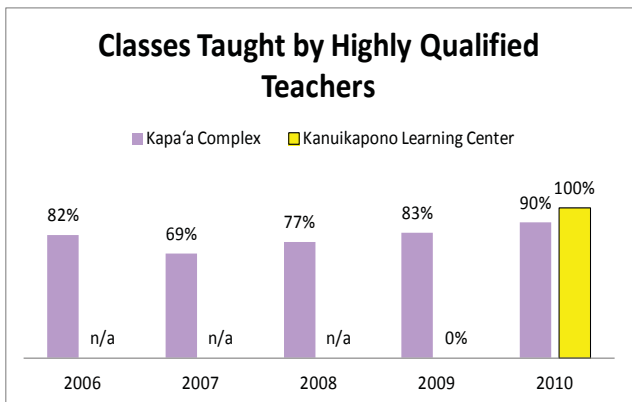
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent. Data for Kanuikapono for 2006-2010 is not available.



Kanuikapono met No Child Left Behind adequate yearly progress goals in 2008 and 2010.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent. Kanuikapono recently added grade 12.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.



**Exhibit 2.4 Myron B. Thompson Academy Public Charter School**



**School Information**

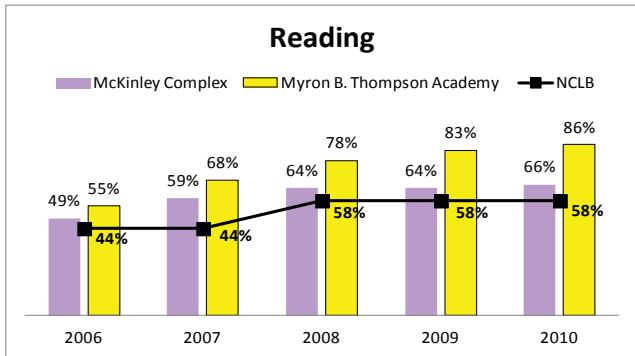
Type of Charter: Start-up

Charter School Focus: Hybrid/Virtual Learning, Educational Research, and STEM (science, technology, engineering, and math)

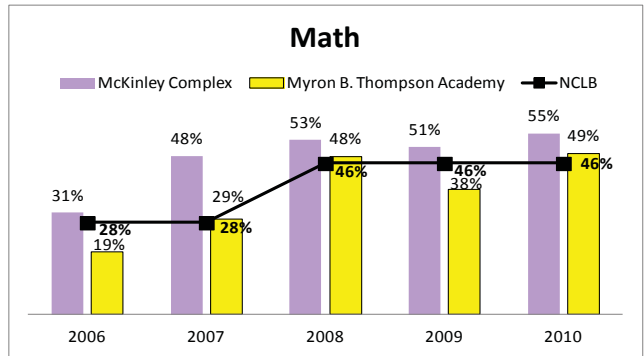
Grades Enrolled: K-12

Enrollment SY2009-10: 552

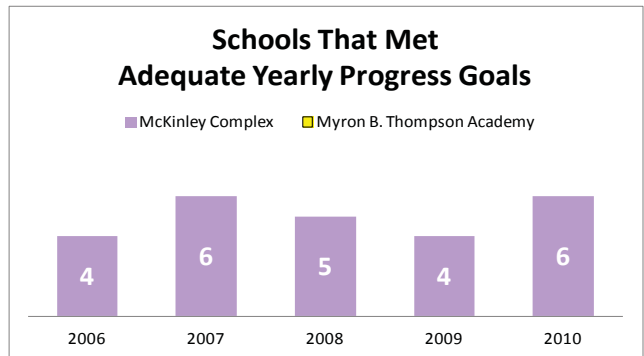
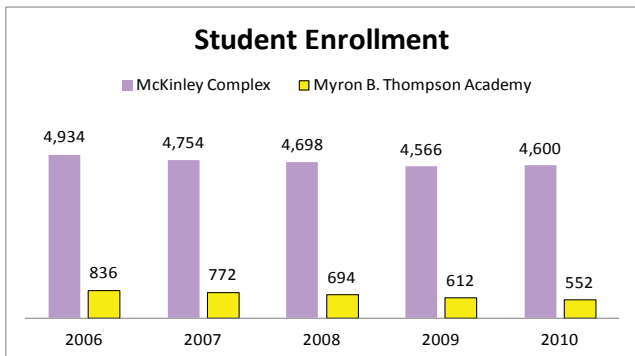
*Myron B. Thompson Academy (MBTA) was established in May 2001. Geographically located within the eight-school McKinley complex, MBTA, like all public charter schools, is not a part of the DOE system.*



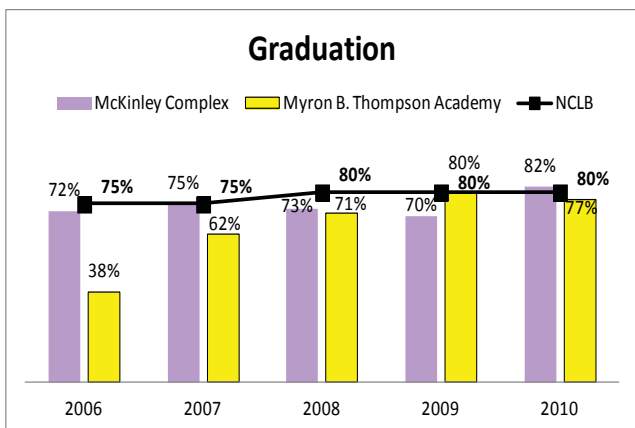
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



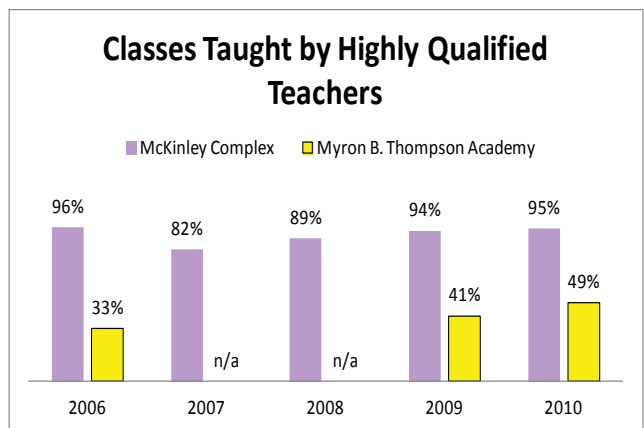
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



Myron B. Thompson Academy has not met No Child Left Behind adequate yearly progress goals.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.



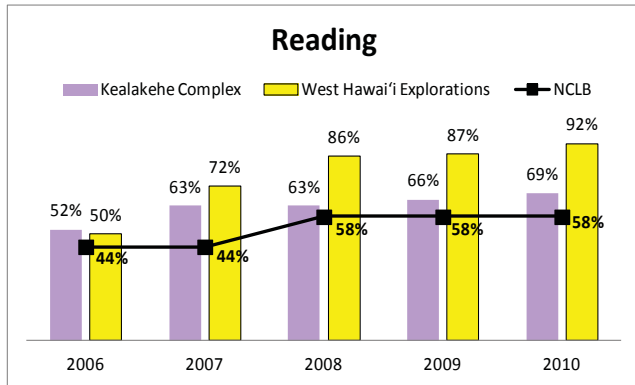
Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

**Exhibit 2.4 West Hawai'i Explorations Academy Public Charter School**

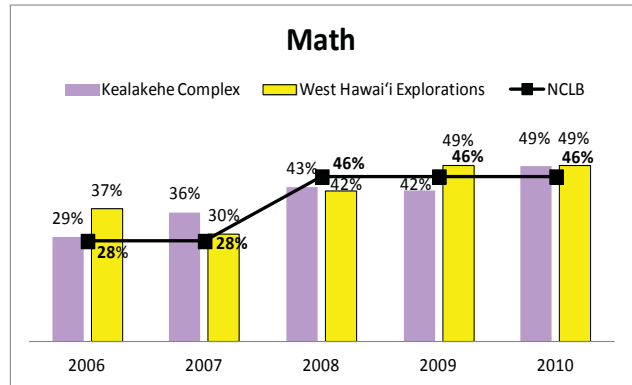


**School Information**

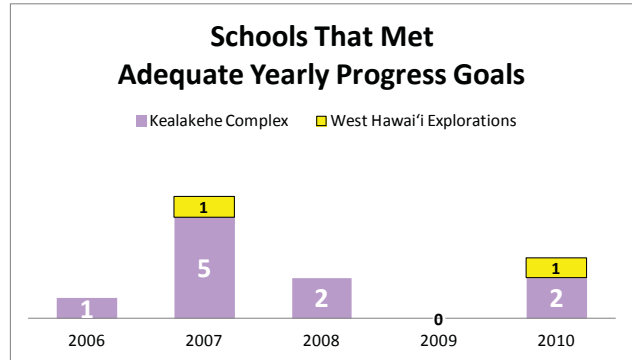
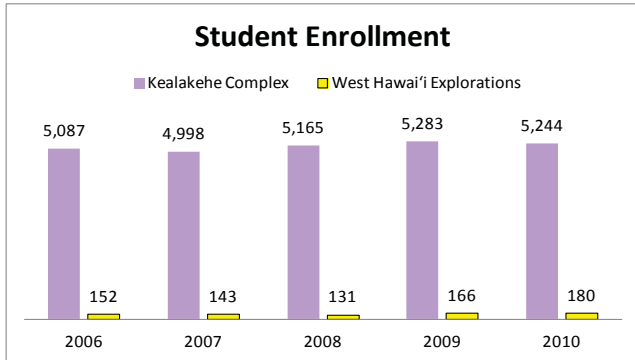
Type of Charter: Start-up  
 Charter School Focus: Arts, Environmental Stewardship, Hawaiian, Project Based Learning, Educational Research, Sciences, and STEM (science, technology, engineering, and math)  
 Grades Enrolled: 6-12  
 Enrollment SY2009-10: 180  
*West Hawai'i Explorations Academy (WHEA) was established in May 2000. Geographically located within the six-school Kealakehe complex, WHEA, like all public charter schools, is not a part of the DOE system.*



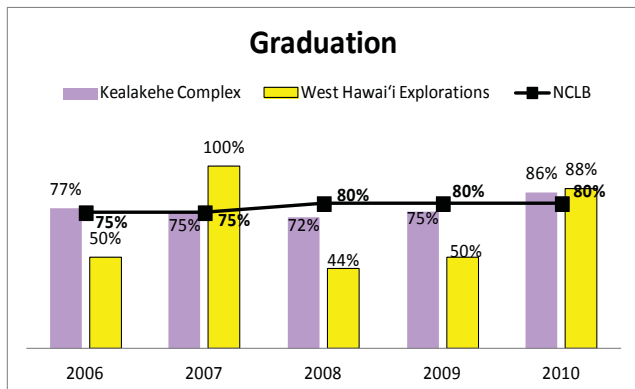
To meet federal No Child Left Behind standards, 58 percent of students must be proficient in reading. In 2006 and 2007, the reading proficiency standard was 44 percent.



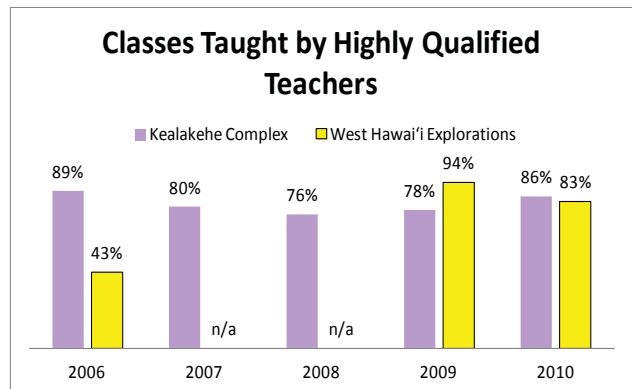
To meet federal No Child Left Behind standards, 46 percent of students must be proficient in math. In 2006 and 2007, the math proficiency standard was 28 percent.



West Hawai'i Explorations Academy met No Child Left Behind adequate yearly progress goals in 2007 and 2010.



To meet federal No Child Left Behind standards, 80 percent of students must graduate from a secondary school. In 2006 and 2007, the graduation standard was 75 percent.



Procedures and decision rules regarding the collection and summarizing of the HQT data have differed from year to year. Comparison between years should not be made at this time.

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## **Charter School Operations Fail To Comply With State Law and Principles of Public Accountability**

According to the Center for Educational Reform, because schools typically show signs of financial or operational distress before academic problems surface, most charter schools are closed for financial or management reasons. In the 16-year history of the Hawai'i public charter school system, the panel took action only once to revoke a school's charter, which was subsequently overturned by the courts. During this period, not a single charter school has been closed. These facts have little to do with the fiscal health of Hawai'i's charter schools. Rather, the lack of school closures very well could be an indicator of a charter school system that has been operating with no outside oversight and has not been accountable to the public.

In the previous section, we reported that the Charter School Review Panel misinterpreted state law and has minimized its role in the charter school system, delegating oversight and monitoring responsibilities over the schools' academic performance to the local school boards. In our review of charter schools' financial information, we found this same cascading delegation of responsibilities. In many cases, charter schools are free to spend public funds with little or no oversight.

As a result, we found school spending and employment practices that were unethical and illegal, ranging from the seemingly frivolous (excursions to a water park and ice skating rink and a school-financed prom) to the possibly fraudulent (administrators doubling and tripling each other's salaries). Unless the Charter School Review Panel and the Charter School Administrative Office take central and active roles in a robust monitoring and reporting system, school spending will continue unrestrained, and a clear picture of the financial viability of individual schools and the charter school system itself will remain elusive.

### ***Like other public schools, charter schools must follow state law***

When it enacted the New Century Charter Schools Law in 1999, the Legislature intended for charter schools to otherwise be free from statutory and regulatory requirements that inhibit or restrict a school's ability to make decisions relating to the provision of educational services. However, this increased autonomy did not include an exemption from the collective bargaining laws and agreements for public employees. Also, while the charter schools are exempt from the statutory and regulatory requirements of the Hawai'i Public Procurement Code, local school boards must develop internal policies and procedures for procuring goods and services consistent with the goals of public accountability and public procurement practices. In addition, public employees in general, including school administrators and local school board members, must comply with federal and state laws, including the State Ethics Code.

### **Collective bargaining, the State's employment framework, still applies to charter schools**

The right of public employees to organize for the purposes of collectively negotiating agreements covering all employees in a bargaining unit is included in the Hawai'i State Constitution. Wages, hours, other terms and conditions of employment, and the amounts the employer (State of Hawai'i) contributes to the Employer-Union Health Benefits Trust Fund toward the costs for a health benefits plan, must be negotiated between the employer and exclusive representative or union. Thus, the wages an employee should be paid are dependent on the bargaining unit to which the employee is assigned and the salary schedule in the collective bargaining contract for that unit.

The law requires public charter school employees be assigned to the appropriate bargaining unit and authorizes local school boards to act as the public employer for purposes of negotiating supplemental agreements for their charter school employees. For instance, when an employee's job description includes the duties and responsibilities of an employee that could be assigned to more than one bargaining unit, the job that takes up the majority of the time, based on the employee's average workweek, shall be the basis for determining the bargaining unit assigned.

To facilitate decentralized decision-making, the Legislature gave union representatives and local school boards of charter schools the discretion to enter into agreements that differ from the master contracts negotiated for DOE employees. Section 89-10.55(c), HRS, empowers the local school board as the employer to negotiate with the union representing the appropriate bargaining unit a memorandum of agreement (MOA) or supplemental agreement that applies only to employees of a charter school. These MOAs or supplemental agreements negotiated by and between a local school board and public union are subject to the conditions and requirements contained in applicable provisions in Chapter 89, HRS, and are not subject to ratification by the employees.

### **Charter schools must use public funds in an ethical manner**

According to the State Constitution, public officers and employees must exhibit the highest standards of ethical conduct. They are subject to the State Code of Ethics and should not use or attempt to use their official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for themselves or others. Public charter school employees and local school board members are also subject to the code's conflict of interest provision, which prohibits them from taking an official action if the action affects their financial interests. Also, they cannot take action affecting an undertaking in which they, in a private capacity, represent a person or business.

In addition, management plays a key leadership role in establishing the foundation for an accountable organization by maintaining an ethical tone, providing guidance for proper behavior, removing temptations for unethical behavior, and providing discipline when appropriate. According to the Government Accountability Office (GAO), government officials entrusted with public resources are responsible for carrying out public functions legally, effectively, efficiently, economically, ethically, and equitably.

In our ten-school sample, only two public charter schools (Hālau Kū Māna and Kanuikapono Learning Center) have a school ethics policy. Three schools (Education Laboratory, Hawai'i Academy of Arts and Science, and Kamaile Academy) follow the State Code of Ethics.

***Myron B. Thompson  
Academy operations  
border on fraud, waste,  
and abuse***

At Myron B. Thompson Academy, we found the school contracted with its employees to excessively increase their salaries. The school's failure to adhere to ethical fiscal management principles led to \$133,000 in overpayments to staff, who, in turn authorized and benefitted from irregular employment and procurement practices. These possibly fraudulent and abusive practices have the potential to erode public confidence in the school and the public charter school system as a whole.

**The Thompson Academy improperly increased employee pay**

In SY2009-10, the Myron B. Thompson Academy's elementary and secondary vice-principals, part-time school administrative services assistant (SASA), and part-time registrar were paid lump-sum amounts through temporary employee contracts in addition to their regular salary. The contract with the secondary vice-principal is shown below in Exhibit 2.5, and the other contracts are in Appendix B. Collectively, the four administrators received \$122,000 under the contracts, in addition to \$153,427 in base salaries. According to the SASA, these administrative differentials are for staff members who take on additional administrative responsibilities. Four of the school's five-person leadership team received these differentials.



Exhibit 2.5  
Improper Temporary Employee Contract with Vice-principal's Company

12/21/2009 - \$17000  
CHK. # 8019  
P.O. 1267492



Myron B. Thompson Academy  
629 Pohukaina St., Ste. 3, Honolulu, HI 96813

**TEMPORARY CONTRACT EMPLOYEE**

Contract for the vice-principal's "administrative differential" was made with the vice-principal's catering business called Dee Island's Choice, LLC.

THIS AGREEMENT, made this 1st day of July, 2009, by and between MYRON B. THOMPSON ACADEMY by its Principal, hereinafter referred to as "MBTA," and Dee Island's Choice, LLC, whose residence address is [REDACTED], hereinafter referred to as "Temporary Contract Employee."

**WITNESSETH**

WHEREAS, the MBTA desires to engage the Temporary Contract Employee to render certain technical and/or professional services described herein (or on an attached exhibit if necessary):

*The Contract Employee will oversee all facilities operations, fire maintenance and inspections, parking, and general maintenance issues throughout the year.*

NOW, THEREFORE, in consideration of the mutual promises, the parties hereto covenant and agree as follows:

1. MBTA agrees to employ the Temporary Contract Employee, and the Temporary Contract Employee agrees to be employed by MBTA to perform the services hereinafter set forth for a period commencing July 1, 2009 and terminating June 30, 2010, both dates inclusive, for which the MBTA agrees to pay the Temporary Contract Employee Seventeen thousand DOLLARS (\$17,000), said sum to be paid either lump sum or in installments as specified below, the total amount of which shall not exceed \$17,000; Lump sum \_\_\_\_\_; Installments \_\_\_\_\_ No. \_\_\_\_\_ \$ \_\_\_\_\_ Per Installment/Rate. (If paid in installments, indicate number of installments and amount per installment.) Payments will be made on a semi-monthly schedule on the 5<sup>th</sup> and 20<sup>th</sup> day of each month.
2. The Temporary Contract Employee agrees to faithfully and personally perform under the supervision of and in a manner satisfactory to MBTA and in such manner MBTA may from time to time direct.
3. The Temporary Contract Employee shall not be entitled to any sick leave, vacation leave or health fund benefits provided under Chapters 79 and 87, H.R.S. Nor shall the Temporary Contract Employee be entitled to retirements benefits under Chapter 88, H.R.S.
4. The Temporary Contract Employee understands that there is no expectation of renewal or extension of this Agreement beyond the termination date of the Agreement.

Either party hereto may terminate this Agreement at any time, by giving (10) calendar days prior written notice to the other; and the Temporary Contract Employee upon such termination shall be entitled to only such payment as shall have accrued at the time of such termination.

5. The Temporary Contract Employee shall comply with fingerprinting and background check requirements in compliance with Chapter 846-43, H.R.S., as a condition of employment.
6. At the termination of this Agreement in any manner, the payment to Temporary Contract Employee of compensation earned to the date of such termination shall be in full satisfaction of all claims against MBTA.
4. IN WITNESS WHEREOF, MBTA and the Temporary Contract Employee have executed this Agreement of temporary employment as of the date first written above.

**TEMPORARY CONTRACT EMPLOYEE**

By: *Alex Yamani*  
 Legal Signature of Employee

6/15/09  
 Date

\_\_\_\_\_  
 Type Legal Name of Employee

**Myron B. Thompson Academy (MBTA)**

I certify that these services are special or unique or essential to the public interest and that, because of circumstances surrounding their fulfillment, personnel to perform the services cannot be obtained through normal civil service recruitment procedures and that this contract period does not exceed one year. Pursuant to Section 76-12 (2), Hawaii Revised Statutes, the services are exempt from the State civil service. This contract complies with Chapters 84 and 103D of the Hawaii Revised Statutes.

Reviewed and recommended:  
 By: *Diana Oshiro*  
 Signature of Requestor (Principal)

6/15/09  
 Date

Diana Oshiro, Principal  
 Type Name of Requestor and Title

Approved:  
 By: *Myron B. Thompson*  
 Chairperson of MBTA Board

6/14/09  
 Date

Office or School :	<u>Myron B. Thompson Academy (MBTA)</u>		
Name :	_____ (Last, First, Middle Initial)		
SSN :	_____ - _____ - _____	Sex	_____
Marital Status :	_____ State Exempt _____	Fed Exempt	_____
Payroll No. :	_____ Warr Distr Code _____	Pos. No.	_____
Rate :	_____ FICA Code _____	Earn Tax Cr Code	_____
UAC :	_____		

Note: Section 84-15, HRS, entitled *Code of Ethics - Contracts*, provides that state agencies shall not enter into contracts to procure services with an employee or a business in which an employee has a controlling interest involving services valued in excess of \$10,000.

Source: Myron B. Thompson Academy



### **Vice-principal pay increase improper and possibly fraudulent**

The payment of administrative differentials began in 2004, when the board approved the school director's request to increase the salary of the elementary vice-principal. The elementary vice-principal, who is also the school director's sister, was initially hired in 2003 to teach Japanese and social studies at a salary of \$46,000. One year later, she was tasked with providing administrative oversight for the school's elementary division.

According to the collective bargaining law, this change in duties necessitates a change in bargaining units (BU), from the Hawai'i State Teachers Association's (HSTA) BU-5 to Hawai'i Government Employees Association's (HGEA) BU-6, whose members are educational officers. Instead of adhering to the salary schedule in the BU-6 agreement and paying the vice-principal a straight salary, the school increased her salary through an administrative differential.

When we asked the school director why the elementary vice-principal never changed bargaining units, she replied that moving her to the HGEA's BU-6 might have jeopardized the seniority and retirement benefits that she had earned as a member of HSTA. Contrary to the collective bargaining provisions under Section 89-10.55, HRS, the school entered into a temporary employee contract covering July 1, 2009 to June 30, 2010 to pay a lump sum of \$35,000 for "administrative leadership for the elementary division."

The secondary vice-principal was initially hired as a student support teacher in 2002 and promoted by the school director in 2005. Before working at the school, she was a DOE employee, and her salary range was \$87,000 to \$88,000. The secondary vice-principal's primary responsibility was for facilities operations (70 percent), including the neighbor islands. Although ten percent of her duties included mentoring students, she did not teach.

According to the collective bargaining law, the vice-principals should belong to the HGEA's BU-6, since the majority of their work involves administrative duties. Assigning the vice-principals to the appropriate bargaining unit would have helped ensure that they were paid appropriately as an educational officer. However, the secondary vice-principal was also allowed to retain her HSTA status while collecting additional compensation through an administrative differential. In July 2009, the Thompson Academy entered into a \$17,000 temporary employee contract with Dee Island's Choice, LLC, the secondary vice-principal's cookie catering business.

As shown in Exhibit 2.5, the contract states: “The Contract Employee will oversee all facilities operations, fire maintenance and inspections, parking, and general maintenance issues throughout the year.” When we asked why the school contracted with Dee Island’s Choice and not the secondary vice-principal herself, leadership members told us that the change was made at the request of the secondary vice-principal, who wanted to claim her additional work expenses under her cookie business, which was inactive at the time.

The secondary vice-principal received a lump-sum check for \$17,000 on December 21, 2009. According to the SASA, the secondary vice-principal retired ten days later, six months short of the end of the school year. In other words, the secondary vice-principal worked half the school year but was paid the contract’s full amount. When we asked the school director about this inappropriate payment, she at first expressed surprise that the secondary vice-principal received the full amount, then hypothesized that she must have completed much of her duties at the beginning of the school year. The school director’s initial reaction and subsequent explanation of the overpayment are implausible, since she signed the \$17,000 check, and the contract clearly states that the secondary vice-principal will oversee issues from July 1, 2009 to June 30, 2010. Further, the contract states that the employee shall only be entitled to payments accrued at the time of termination.

### **Salaries of part-time employees doubled and tripled**

The school’s part-time registrar is a retiree and former DOE employee. His duties include student registration, class programming, maintaining records and developing schedules. According to the school director, as a member of BU-5, his \$17,700 base salary follows the master collective bargaining agreement.

Under the terms of his temporary employee contract, he received an administrative differential of \$35,000 for serving as the “primary registrar for both elementary and secondary divisions of MBTA and supervising student information system services.” The contract did not increase the registrar’s hours of work from part-time to full-time. Therefore, the registrar works four hours per day, or 20 hours a week, and earns a total salary of \$52,700. As shown in Exhibit 2.6, the registrar’s \$35,000 administrative differential was nearly double his regular part-time salary.

When asked why it was necessary to have a salary plus an administrative differential rather than including the differential in a new salary for the part-time registrar, the school director, a veteran administrator formerly employed by the DOE, could not provide a reasonable explanation other than to acknowledge it was a “learning process.”

Like the school registrar, the SASA is a retiree and former DOE employee. According to the school director, as a member of HGEA's BU-3, her base salary of \$26,099 also follows the master agreement. Although the SASA is a part-time employee of the school, she works full time under the terms of a temporary employee contract to provide "school budget management of all finances" in the school and those that transition to the school's non-profit entity, MBTA Inc. As shown in Exhibit 2.7, the SASA received an administrative differential of \$35,000.

Exhibits 2.6 and 2.7 show the employees' bargaining unit, base salary, contract amounts, payment over the contract amount, and percentage of pay received in excess of the base salary.

**Exhibit 2.6  
Details of Differential Contracts Provided to Myron B. Thompson Academy "Leadership Team" - Bargaining Unit 5 Employees**

Employee in HSTA Bargaining Unit 5	Base Salary	Contract Amount (Differential)	Payment Over Contract Amount	Total	Percent Differential and Over-payment Above Base Salary
Elementary VP	\$62,450	\$35,000	N/A	\$97,450	56%
Secondary VP	\$47,178*	\$17,000**	N/A	\$64,178	36%
Registrar (Part-time)	\$17,700	\$35,000	\$2,500	\$55,200	212%

Note: \*The secondary Vice-principal's base salary covered only six months from July 1 to December 31, 2009 when she retired from the school.

\*\*The secondary Vice-principal's contracted differential amount was for the period July 1, 2009 to June 30, 2010. The Vice-principal received the entire amount even though she retired on December 31, 2009.

Source: Office of the Auditor

**Exhibit 2.7  
Details of Differential Contract Provided to Myron B. Thompson Academy "Leadership Team" - Bargaining Unit 3 Employee**

Employee in HGEA Bargaining Unit 3	Base Salary	Contract Amount (Differential)	Payment Over Contract Amount	Total	Percent Differential and Over-payment Above Base Salary
SASA	\$26,099	\$35,000	\$8,500	\$69,599	167%

Source: Office of the Auditor

### **Improperly compensated employees also received overpayments**

The school failed to comply with the payment terms of the temporary employee contracts with its secondary vice-principal, SASA, and registrar, resulting in overpayments. Of the four administrators who received pay differentials in SY2009-10, we found that the secondary vice-principal received the full contracted amount covering the period July 2009 to June 2010, despite the fact she retired on December 31, 2009 and did not fulfill the contract.

We also found that the school SASA was paid \$8,500 more than the \$35,000 she was contracted to receive in SY2009-10. A review of the payments for SY2009-10 and a discussion with the school director confirmed that the SASA received a total of \$43,500 in addition to her base salary. A review of the payments and discussion with the school director confirmed that in SY2009-10, the registrar received a total of \$37,500 in addition to his base salary, even though he was still working part-time.

In all three cases, the contract stated a not-to-exceed payment amount for services. The school's director was vaguely aware of the \$2,500 overpayment to the registrar and the \$8,500 overpayment to the SASA, but could not offer any explanations. She confirmed the overpayments and said the school would correct the erroneous payments to the registrar and SASA.


### **Improper financial management practices border on fraud and abuse**

We found that the \$17,500 purchase order for the SASA's administrative differential pay was authorized by a non-employee. The purchase order dated July 1, 2010, as shown in Exhibit 2.8, was signed by the secondary vice-principal, seven months after she retired from the school on December 31, 2009. In addition, there was no evidence that the school director reviewed and approved the purchase because the school used a rubber stamp for her signature. The retired secondary vice-principal also signed the \$17,500 school check for the purchase order, as shown in Exhibit 2.9.

When asked about these improprieties, the school director replied that the retired secondary vice-principal was probably asked by the staff to sign the check "out of habit" since the other people authorized to sign were unavailable. Again, this explanation is not believable. The secondary vice-principal was no longer an employee of the school and, therefore, was not authorized to sign school checks.

In addition, before she retired, the secondary vice-principal co-signed a \$708.34 check dated June 25, 2009 to the aforementioned Dee Island's Choice, LLC, a business she co-owned. The other signature on the check belonged to the SASA. The school director said that she was not aware that the secondary vice-principal had signed a check to herself. See Exhibit 2.10 for a copy of the check.

**Exhibit 2.8**  
**Myron B. Thompson Academy Purchase Order Improperly Authorized by Retired Vice-principal**



**Myron B. Thompson Academy**  
**Public Charter School**  
 629 Pohukaina Street Suite 3  
 Honolulu, HI 96813  
 www.ethompson.org  
 Phone # 808-441-8011 Fax # 808-586-3640

**Date:** 7/1/2010

**Purchase Order**  
**PO O1267680**

Vendor Higgins, Gwen A.	SHIP & BILL TO: <b>Myron B. Thompson Academy</b> 629 Pohukaina Street Suite 3 Honolulu, HI 96813
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Item	Description	Qty	Rate	Amount
5135	Contract: 07/01/2010 to 12/31/2010 for \$17,500.00. Payment is made in lump sum. Contract employee will provide school budget management of all finances in MBTA and those that transition into newly created non-profit entity, Ho 'Iliua Inc.		17,500.00	17,500.00
<b>Total</b>				\$17,500.00

**INSTRUCTIONS TO VENDOR - READ CAREFULLY**

1. P.O. number must appear on all invoices, packing slips, packages & cartons.
2. Submit separate bill to the above school for each purchase order at time of delivery with information as to quantity, description, unit price and cost.
3. This school will not assume responsibility for purchases without properly signed purchase orders.

PO Authorized by: *Diana Oshiro* Principal. *Dee Yamane* Purchaser.

Rubber stamp used for the principal's signature

Retired VP Yamane improperly approves purchase order

Source: Myron B. Thompson Academy

**Exhibit 2.9**

**Myron B. Thompson Academy Check Improperly Signed by Retired Vice-principal**

MYRON B. THOMPSON ACADEMY  
629 POHUKAINA ST. STE. 3  
HONOLULU, HAWAII 96813

8375

VP Yamane retired  
12/31/2009

7/1/2010

PAY TO THE ORDER OF Gwendolyn Higgins \$ \*\*17,500.00

Seventeen Thousand Five Hundred and 00/100 DOLLARS

Higgins, Gwen A.

Retired VP Yamane improperly signs check

Valid for 90 days

MEMO Contract: 07/01/2010 to 12/31/2010

Source: Myron B. Thompson Academy

**Exhibit 2.10**

**Myron B. Thompson Academy Check Signed by Vice-principal and Payable to Vice-principal's Company**

DEPARTMENT OF EDUCATION  
MYRON B. THOMPSON ACADEMY  
629 POHUKAINA STREET SUITE 3  
HONOLULU, HI 96813

7597

DATE June 25, 2009 59-102/1213 19

PAY TO THE ORDER OF DEE ISLAND'S CHOICE, LLC \$ 708.34

SEVEN HUNDRED EIGHT DOLLARS AND 34/100 DOLLARS

Bank of Hawaii  
WALAZA-AHALA BRANCH

VP Yamane co-owns Dee Island's Choice, LLC

FOR DEE YAMANE Gwendolyn A. Higgins  
Gwendolyn A. HIGGINS

Source: Myron B. Thompson Academy

**School engaged in transactions with related parties**

We also found that the school engaged in transactions with related parties in contravention of its own procurement policy that requires full written disclosure. The school director could not provide adequate support



that transactions with related parties complied with internal policies governing related party transactions.

Four school employees (sister and three nephews) were related to the school's director. Three employees (husband, a daughter, and a daughter-in-law) were related to the secondary vice-principal who retired in December 2009. The school's procurement policy prohibits purchases of goods or services from an immediate family member or employee unless authorized by the executive director, following full disclosure of the potential benefits. The director stated that there was prior disclosure and approval of related parties before they were hired. However, she stated that there was no written disclosure to the board of these relationships until November 23, 2010, when the issue was brought up in a financial disclosure to the local school board.

Public employees and local school board members must abide by the State Ethics Code's conflict of interest provision, which prohibits them from taking an official action if the action affects their financial interests. The financial interests of a spouse or dependent child are treated the same as the public official's financial interest.

In addition, while local school boards are exempt from the Hawai'i Public Procurement Code, they are encouraged to conduct procurements in an ethical manner. According to Chapter 103D, HRS, public employees should:

...remain independent from any actual or prospective bidder, offeror, contractor, or business... encourage economic competition by ensuring that all persons are afforded an equal opportunity to compete in a fair and open environment... avoid the intent and appearance of unethical behavior... avoid social interactions with any actual or prospective bidder, offeror, contractor, business, or other interested parties during the procurement process... and identify and eliminate any conflicts of interest.

***Hawai'i Technology Academy's head of school, who spends millions of dollars in state money, is not a public employee, so he is not subject to state law or local school board authority***

At the Hawai'i Technology Academy (HTA), the head of school is not a public employee but an employee of K12 Classroom LLC, a for-profit company that provides the school's K-12 curriculum program for virtual learning. The head of school's employment status raises serious management and ethical concerns, since as an employee of a private company, the head of school is not subject to the State's ethics law. This is particularly important because among his many duties, the head of school is responsible for spending and approving all purchases. In FY 2010, HTA's general fund revenues were \$3.04 million.

In addition, because the head of school is an employee of K12 Classroom LLC, HTA's school board has limited oversight and no authority



over him. According to the Education Products and Service Agreement between K12 Classroom LLC and HTA's school board, if the school is dissatisfied or concerned about the head of school's job performance, it may submit a written complaint detailing the nature of the performance issues and request a reprimand from the company. If the company judges that the school's complaints are not "arbitrary or capricious," and sufficient evidence is provided, it will "substantially comply" with the school's requested reprimands. According to the agreement, termination is excluded as a requested action. That decision is made solely by the company. Therefore, HTA's head of school, who controls millions of dollars in public moneys, is ultimately accountable to his employer, K12 Classroom LLC, not to the State or even his school.

***Kamaile Academy successfully negotiated supplemental agreements, many other schools did not follow law***

Kamaile Academy is located on the Wai'anae Coast of O'ahu. Kamaile's local school board and the HSTA successfully negotiated a supplemental agreement to pay teachers who were initial charter members or "charter teachers," a \$5,000-a-year stipend. The stipends were approved for the 2009-10 and 2010-11 school years, provided the teachers remained employed at Kamaile for the full school year and continued to make "special leadership contributions." If the teacher failed to meet sustained levels of commitment and leadership, the stipend could be terminated. The terms for termination or reduction of the stipend are discussed in detail in the agreement.

### **Other school boards failed to enter into supplemental agreements**

At Hakipu'u Learning Center, the school board did not negotiate supplemental agreements with employees' unions. According to the fiscal manager, two teachers, one school administrative services assistant, and two community resource specialists each receive a stipend of \$2,000 a year for additional work performed after normal business hours and on the weekends. In addition, the fiscal manager, who works part-time, receives a stipend of \$1,000 a year. The stipends are distributed in two payments, one every six months, for a total of \$11,000.

The stipends are included in the school budget that is approved by the school board. An administrative team member recalled that the board and the staff were concerned that school administrators were not adequately compensated for their work as the school became larger. However, our review of the HSTA master agreement for BU-5, which covers teachers, did not identify stipends for additional work done past normal business hours. The HGEA master agreement for BU-3, which covers the school administrative services assistant, provided that employees are entitled to receive cash payment or compensatory time credit because of overtime work. But the master agreements also did not

mention a lump-sum stipend for overtime work. For SY2009-10, there were no supplemental agreements different from the master agreements for HSTA and HGEA that allowed for payment of stipends.

West Hawai'i Explorations Academy also paid additional wages to its employees that appear inconsistent with the law. We identified additional payments to two co-directors and the office manager for extra services rendered, two teachers for after-school or overtime work, one teacher for meeting HQT requirements, and 11 teachers for incentives linked to their portfolios. Contrary to collective bargaining law, the school's local school board did not negotiate a supplemental agreement with HSTA allowing for these payments.

When we asked the school to provide us with documentation showing the school's authority to enter into these transactions, the co-director mistakenly cited the public charter schools law pertaining to the local school boards as autonomous governing bodies responsible for the financial and academic viability of the school. While public charter schools enjoy substantial autonomy, exempt from a significant body of state laws, they are required to abide by Hawai'i's collective bargaining law.

### **Some schools assigned employees to wrong bargaining units or did not assign employees to any bargaining unit**

We also found some charter school employees may not be assigned to the appropriate bargaining unit. For example, the West Hawai'i Explorations Academy entered into temporary employee contract agreements to pay its two co-directors, who are members of the HSTA, for professional services that are administrative in nature. One of the co-directors was paid to provide professional services related to school discipline, public relations, and health and safety. The co-director was divested of his teaching responsibilities and spends the majority of his time performing duties similar to an educational officer covered by the HGEA's BU-6 bargaining agreement. The co-director appears to more appropriately belong to the HGEA BU-6. Assigning the co-director to the appropriate bargaining unit ensures that he is paid appropriately as an educational officer.

In addition, we found three of Hakipu'u's administrative team members—two community resource specialists and a fiscal manager—were not assigned to any bargaining unit. According to state law, charter school employees must be assigned to an appropriate bargaining unit.

***Absent oversight, charter schools spent public moneys in an unsound manner***

Local school boards have the authority to determine the organization and management of the school. As such, they must develop internal policies and procedures for procuring goods and services consistent with the goals of public accountability and public procurement practices. The school boards are also responsible for ensuring that charter schools are financially sound and fiscally responsible in their use of public funds, maintain accurate and comprehensive financial records, operate in accordance with generally accepted accounting principles, and maintain a sound financial plan.

The panel and the office also did not oversee local school boards' management of procurements using public funds. Nine out of the ten charter schools we reviewed confirmed that the panel and the office play no role or have no responsibility for procurement. The panel has the power to oversee and monitor charter schools through the ASEs, which provide an evaluation of the school's organizational and financial viability. This lack of support and oversight from the panel and the office has resulted in procurement practices that increase the risk of abuse, waste, and fraud and erode public confidence in the charter school system.

**Spending on “student incentives” offers lesson in oversight**

In SY2009-10, Kamaile Academy paid for school trips that were inconsistent with proper stewardship of public moneys. The school paid for excursions and gifts that totaled \$18,267. Exhibit 2.11 details the purchases, classified as “student incentives.”

**Exhibit 2.11  
Kamaile Academy Student Incentives Paid With Public Funds – SY2009-10**

<b>Student Incentives</b>	<b>Description</b>	<b>Cost</b>
Wet 'N Wild Water Amusement Park	School-wide field trip for 951 students and chaperones	\$15,660
Ice Palace	Field trip for 230 students	\$1,782
Chuck E. Cheese	Field trip and lunch for 65 students	\$341
Six bicycles	Used as student incentives	\$484
	<b>TOTAL</b>	<b>\$18,267</b>

Source: Office of the Auditor

According to the school board's administrative services manager, in the SY2009-10, Kamaile Academy budgeted \$25,000 for student incentives. She was not sure if the purchases that year were improper since, she

asserts, other charter schools on the U.S. mainland use incentives to motivate students. However, the following school year, the board's new executive director questioned the need for incentives. She requested to see the school's policies regarding student incentives, as well as the conditions for receiving the benefits. When the school could not provide such supporting information, the executive director concluded that the school could not demonstrate that the excursions and gifts had helped the students' academic performance. The board did not approve the school's student incentives budget for SY2010-11.

West Hawai'i Explorations Academy spent public moneys for its school prom at the Sheraton Keauhou Bay Resort and Spa. The school also paid for meals and lodging for two school trips to Kilauea Military Camp at Hawai'i Volcanoes National Park. Exhibit 2.12 details the purchases.

**Exhibit 2.12**  
**West Hawai'i Explorations Academy Excursions Paid With Public Funds – SY2009-10**

Location	Excursion	Cost
Sheraton Keauhou Bay Resort and Spa	School prom dinners for 80 students	\$3,997
Kilauea Military Camp, Hawai'i Volcanoes National Park	Meals and lodging for 2 school trips	\$1,120
	<b>TOTAL</b>	<b>\$5,117</b>

Source: Office of the Auditor

According to West Hawai'i's office manager, the board tasked the school administration to manage the procurement process. All purchases are discussed during staff meetings and reviewed against the budget, with any purchase or aggregate of purchases of more than \$100 requiring prior authorization by the school's co-directors. The office manager said that while the board does not get involved in the procurement of goods and services, it is an oversight body that reviews and approves the budget and administrative and financial reports. In addition, key purchases are discussed with the school board during board meetings.

While the financing of the school prom and two overnight excursions may have been properly reviewed and procured according to West Hawai'i's policies and procedures, school officials still must exercise proper stewardship of public moneys. We acknowledge the school's increased autonomy, and we recognize that the amounts spent on the school prom and the student excursions are relatively small when compared with other school expenditures. However, West Hawai'i administrators should be mindful that they are spending public funds, and we question whether the public should be paying for these student activities.

### **Poor fiscal management practices are widespread**

In our review of charter school procurement and expenditure data, we found that charter schools have weak procurement controls over approvals, authorizations, verifications, and reconciliations. For example, five schools—half of the charter schools that we reviewed—were not in compliance with their own internal procurement policies relating to the competitive process involving the solicitation of three proposals. For example, Kamaile Academy awarded a \$34,588 contract to N&K CPAs Inc. for financial auditing services without going through a competitive process. The school's procurement policy requires the use of the competitive proposal process for contracts of \$25,000 or more. Instead, the contract was awarded based on a recommendation that the vendor had experience performing DOE financial audits.

Kamaile Academy also did not comply with its procurement policy governing related-party transactions, which states that the charter school shall not purchase any goods or services from any immediate family member of any employee of the school unless appropriately authorized. However, the school's vice-principal awarded a \$24,860 contract to the principal's son for grease trap removal and installation. The family relationship was not disclosed to the local school board until after the contract was signed. Kamaile's administrative services manager acknowledged that this was a violation of the school's procurement policy, and it was an instance of "poor judgment" on the school's part.

For each of the ten schools visited, we assessed how well management's directives were enforced through the implementation of schools' procurement policies. Six schools were deficient in documenting proper approvals for procurement and payments by the local school board or school management. For example, at the Education Laboratory, we found procurement transactions had no documented approval, no verification that the goods or services were received, and no approval for payment. According to the school's procurement policies, the principal must approve procurement of goods and services.

Five schools were unable to provide evidence of approvals for bank reconciliations. At Hakipu'u Learning Center, we found no review or approval of the monthly bank reconciliation by the local school board chair or treasurer. According to the school's accounting policies and procedures, the board is responsible for supervising and overseeing the fiscal management staff. All bank accounts must be reconciled monthly by the fiscal management staff and reviewed by the board chair and treasurer. The fiscal manager informed us that currently her work is not reviewed or approved by any administrative team members or the local school board.

According to the GAO *Standards for Internal Control in the Federal Government*, duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.

At three schools, we found single individuals controlling key aspects of a transaction that includes authorizing, processing, reviewing, paying, and handling related assets, thus increasing the risk that errors could be made and remain undetected. For example, at West Hawai'i Explorations Academy, we found the office manager is responsible for authorizing, processing, recording, reviewing, and reconciling transactions, handling any related assets, and preparing and signing checks for the payment of these transactions. Concerns about separation of duties were raised in West Hawai'i's June 30, 2010 financial audit. The audit recommended West Hawai'i remove all individuals with accounting responsibilities from being an authorized check signer. West Hawai'i acknowledged the issue and hired an outside bookkeeper to perform some of the duties of the office manager.

---

## Conclusion

We found that the Charter School Review Panel, Hawai'i's charter school authorizer, has focused its efforts on its authorization and re-authorization duties, delegating its monitoring and reporting responsibilities to the local school boards. Because it does not exercise effective oversight, the panel is unaware if charter schools improve learning over time, nor can it hold the charter schools accountable for meeting or exceeding performance standards established by the State. Moreover, the panel and the local school boards cannot ensure public funds are spent wisely, consistent with the goals of public accountability and ethical principles. To establish outside oversight and real accountability in Hawai'i's charter school system, the panel and the Charter School Administrative Office need to take a central and active role in a robust monitoring and reporting system.

---

## Recommendations

1. As the State's charter school authorizer, the Charter School Review Panel should hold charter schools accountable for their performance by:
  - a. Developing the guidelines for the implementation plans, which are the performance contracts, for each charter school and local school board. These guidelines should incorporate

essential academic and operating performance standards and expectations with clearly defined and measurable indicators, metrics, and targets for schools to meet or exceed in order to continue operating. This effort should be completed by June 30, 2012;

- b. Developing a sound methodology that rigorously measures the rate of individual student growth to ensure students are making progress to reaching performance standards, and requiring the Charter School Administrative Office to assist in this effort;
  - c. Collecting, analyzing, and verifying data annually to measure student academic growth toward meeting or exceeding performance standards established by the Board of Education. These performance measures should comply with those outlined in the schools' updated performance contract;
  - d. Reporting annually to the Board of Education on each charter school's student performance outcomes to show what schools are accomplishing with their students; and
  - e. Requiring the support and assistance of the administrative office in fulfilling the above responsibilities to monitor and oversee the public charter schools.
2. The local school boards should provide greater oversight and monitoring of their respective charter schools by:
    - a. Updating the implementation plans, which are their performance contracts, with the Charter School Review Panel; and
    - b. Ensuring the data reported in the annual self-evaluation reports are accurate, complete, and agree with supporting documentation and the updated implementation plan.
  3. As the autonomous governing body for each charter school, the local school board should take a stronger role in the overall management of the school by:
    - a. Requiring the school principal or director to assign all employees to the appropriate bargaining unit in compliance with Section 89-10.55, HRS, and that employee wages and other terms and conditions of employment comply with the appropriate collective bargaining agreements;



- b. Negotiating supplemental agreements with the appropriate public employee union before approving its employee wages, stipends, bonuses, or other terms and conditions that differ from the master collective bargaining agreement, in compliance with Section 89-10.55, HRS;
- c. Establishing and implementing stronger and more effective controls to reduce improper and abusive purchases and to ensure operational efficiency is being achieved by:
  - 1) Incorporating the requirements of ethical public procurement and the State ethics code's conflict of interest provisions in compliance with Chapter 84, HRS, to ensure that employees conduct and participate in public procurement in an ethical manner;
  - 2) Establishing and implementing stronger and more effective controls to reduce improper and abusive purchases and to ensure operational efficiency is being achieved;
  - 3) Reviewing and adopting internal procurement policies and procedures to meet the goals of public accountability; and
- d. Ensuring that procurement reports are developed and presented on a recurring basis to each local school board member.

**Appendix A**  
**List of Public Charter Schools as of SY2009-10**

#	Public Charter Schools	Grades	Student Population SY2009-10	Date Charter Established
<b>Hawai'i</b>				
1	Connections Public Charter School	K-12	373	May 2000
2	Hawai'i Academy of Arts & Science Public Charter School	K-12	432	June 2001
3	Innovations Public Charter School	1-8	185	January 2001
4	Ka 'Umeke Ka'eo Public Charter School	K-10	243	April 2001
5	Kanu o ka 'Āina Public Charter School	JK-12	215	May 2000
6	Ke Ana La'ahana Public Charter School	7-12	85	January 2001
7	Ke Kula 'o Nawahiokalani'opu'u Iki Laboratory Public Charter School	K-8	159	June 2001
8	Kona Pacific Public Charter School	K-7	122	November 2007
9	Kua O Ka La Public Charter School	K-3, 6-12	125	June 2001
10	Volcano School of Arts & Sciences Public Charter School	K-8	154	January 2001
11	Waimea Middle Public Conversion Charter School	6-8	281	June 2003
12	Waters of Life Public Charter School	K-6	74	July 2000
13	West Hawai'i Explorations Academy Public Charter School	6-12	180	May 2000
<b>Kaua'i</b>				
14	Kanuikapono Learning Center Public Charter School	K-12	64	August 2001
15	Kawaikini Public Charter School	K-12	92	November 2007
16	Ke Kula Ni'ihau O Kekaha Learning Center Public Charter School	K-12	33	May 2001
17	Kula Aupuni Ni'ihau A Kahelelani Aloha Public Charter School	K-12	40	August 2001
<b>Maui and Moloka'i</b>				
18	Kihei Public Charter School	K-12	436	May 2001
19	Kualapu'u Elementary Public Charter School	PreK-6	364	June 2004
<b>O'ahu</b>				
20	Education Laboratory Public Charter School	K-12	431	August 2001
21	Hakipu'u Learning Center Public Charter School	4-12	77	May 2001
22	Hālau Kū Māna Public Charter School	6-12	99	December 2000
23	Halau Lokahi New Charter School	K-12	214	June 2001
24	Hawai'i Technology Academy Public Charter School	K-12	486	April 2008
25	Ka Waihona o ka Na'auao Public Charter School	K-8	529	June 2001
26	Kamaile Academy Public Charter School	K-9	722	August 2007
27	Ke Kula 'o Samuel M. Kamakau Laboratory Public Charter School	K-12	115	May 2001
28	Lanikai Elementary Public Charter School	JK-6	303	September 1996
29	Myron B. Thompson Academy Public Charter School	K-12	552	May 2001
30	Voyager Public Charter School	K-8	228	December 2000
31	Wai'ālae Elementary Public Charter School	K-5	406	September 1995

*This page is intentionally left blank.*

Elementary vice-principal's contract



Myron B. Thompson Academy  
629 Pohukaina St., Ste. 3, Honolulu, HI 96813

TEMPORARY CONTRACT EMPLOYEE

THIS AGREEMENT, made this 1st day of July, 2009 by and between MYRON B. THOMPSON ACADEMY by its Principal, hereinafter referred to as "MBTA," and Kurumi Kaapana-Aki, whose residence address is [REDACTED] hereinafter referred to as "Temporary Contract Employee."

WITNESSETH

WHEREAS, the MBTA desires to engage the Temporary Contract Employee to render certain technical and/or professional services described herein (or on an attached exhibit if necessary):

*The Contract Employee will provide administrative leadership for the elementary division of MBTA and coordinate all curricular and instructional services required therein.*

NOW, THEREFORE, in consideration of the mutual promises, the parties hereto covenant and agree as follows:


1. MBTA agrees to employ the Temporary Contract Employee, and the Temporary Contract Employee agrees to be employed by MBTA to perform the services hereinafter set forth for a period commencing July 1, 2009, and terminating June 30, 2010, both dates inclusive, for which the MBTA agrees to pay the Temporary Contract Employee DOLLARS (\$ 35000) ( ), said sum to be paid either lump sum or in installments as specified below, the total amount of which shall not exceed \$                     : Lump sum X; Installments                      No.                      \$                      Per Installment/Rate. (If paid in installments, indicate number of installments and amount per installment.) Payments will be made on a semi-monthly schedule on the 5<sup>th</sup> and 20<sup>th</sup> day of each month.
2. The Temporary Contract Employee agrees to faithfully and personally perform under the supervision of and in a manner satisfactory to MBTA and in such manner MBTA may from time to time direct.
3. The Temporary Contract Employee shall not be entitled to any sick leave, vacation leave or health fund benefits provided under Chapters 79 and 87, H.R.S. Nor shall the Temporary Contract Employee be entitled to retirements benefits under Chapter 88, H.R.S.
4. The Temporary Contract Employee understands that there is no expectation of renewal or extension of this Agreement beyond the termination date of the Agreement.

MBTA Contract 08-09

Either party hereto may terminate this Agreement at any time, by giving ten (10) calendar days prior written notice to the other; and the **Temporary Contract Employee** upon such termination shall be entitled to only such payment as shall have accrued at the time of such termination.

5. The **Temporary Contract Employee** shall comply with fingerprinting and background check requirements in compliance with Chapter 846-43, H.R.S., as a condition of employment.
6. At the termination of this Agreement in any manner, the payment to **Temporary Contract Employee** of compensation earned to the date of such termination shall be in full satisfaction of all claims against MBTA.
4. IN WITNESS WHEREOF, **MBTA** and the **Temporary Contract Employee** have executed this Agreement of temporary employment as of the date first written above.

**TEMPORARY CONTRACT EMPLOYEE**

By   
*Legal Signature of Employee*

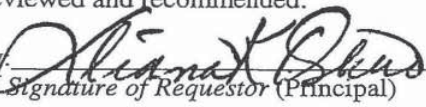
\_\_\_\_\_  
*Type Legal Name of Employee*

7-1-09  
*Date*

**Myron B. Thompson Academy (MBTA)**

I certify that these services are special or unique or essential to the public interest and that, because of circumstances surrounding their fulfillment, personnel to perform the services cannot be obtained through normal civil service recruitment procedures and that this contract period does not exceed one year. Pursuant to Section 76-12 (2), Hawaii Revised Statutes, the services are exempt from the State civil service. This contract complies with Chapters 84 and 103D of the Hawaii Revised Statutes.

Reviewed and recommended:

By   
*Signature of Requestor (Principal)*

Diana Oshiro, Principal  
*Type Name of Requestor and Title*

7/1/2009  
*Date*

Approved:

By: \_\_\_\_\_  
*Chairperson of MBTA Board*

\_\_\_\_\_ *Date*

Office or School :	<u>Myron B. Thompson Academy (MBTA)</u>		
Name :	_____ <i>(Last, First, Middle Initial)</i>		
SSN :	_____ - _____ - _____	Sex	_____
Marital Status :	_____	State Exempt	_____ Fed Exempt _____
Payroll No. :	_____	Warr Distr Code	_____ Pos. No. _____
Rate :	_____	FICA Code	_____ Earn Tax Cr Code _____
UAC :	_____	_____	_____



MBTA Contract 09-10

Part-time registrar's contract



Myron B. Thompson Academy  
629 Pohukaina St., Ste. 3, Honolulu, HI 96813

TEMPORARY CONTRACT EMPLOYEE

THIS AGREEMENT, made this 1st day of July, 2009, by and between MYRON B. THOMPSON ACADEMY by its Principal, hereinafter referred to as "MBTA," and Gary Sakima, whose residence address is \_\_\_\_\_, hereinafter referred to as "Temporary Contract Employee."

WITNESSETH

WHEREAS, the MBTA desires to engage the Temporary Contract Employee to render certain technical and/or professional services described herein (or on an attached exhibit if necessary):

The Contract Employee will serve as primary registrar for both elementary and secondary divisions of MBTA and supervise all student information system services.

NOW, THEREFORE, in consideration of the mutual promises, the parties hereto covenant and agree as follows:

1. MBTA agrees to employ the Temporary Contract Employee, and the Temporary Contract Employee agrees to be employed by MBTA to perform the services hereinafter set forth for a period commencing July 1, 2009, and terminating June 30, 20010, both dates inclusive, for which the MBTA agrees to pay the Temporary Contract Employee Thirty-five thousand DOLLARS (\$ 35,000 .), said sum to be paid either lump sum or in installments as specified below, the total amount of which shall not exceed \$ 35,000 : Lump sum \_\_\_\_\_ ; Installments X No. \_\_\_\_\_ \$ \_\_\_\_\_ Per Installment/Rate. (If paid in installments, indicate number of installments and amount per installment.) Payments will be made on a semi-monthly schedule on the 5<sup>th</sup> and 20<sup>th</sup> day of each month.
2. The Temporary Contract Employee agrees to faithfully and personally perform under the supervision of and in a manner satisfactory to MBTA and in such manner MBTA may from time to time direct.
3. The Temporary Contract Employee shall not be entitled to any sick leave, vacation leave or health fund benefits provided under Chapters 79 and 87, H.R.S. Nor shall the Temporary Contract Employee be entitled to retirements benefits under Chapter 88, H.R.S.
4. The Temporary Contract Employee understands that there is no expectation of renewal or extension of this Agreement beyond the termination date of the Agreement.

7/1/09 - CHK #7611 \$20,000



MBTA Contract 09-10

Either party hereto may terminate this Agreement at any time, by giving ten (10) calendar days prior written notice to the other; and the **Temporary Contract Employee** upon such termination shall be entitled to only such payment as shall have accrued at the time of such termination.

- 5. The **Temporary Contract Employee** shall comply with fingerprinting and background check requirements in compliance with Chapter 846-43, H.R.S., as a condition of employment.
- 6. At the termination of this Agreement in any manner, the payment to **Temporary Contract Employee** of compensation earned to the date of such termination shall be in full satisfaction of all claims against **MBTA**.
- 4. IN WITNESS WHEREOF, **MBTA** and the **Temporary Contract Employee** have executed this Agreement of temporary employment as of the date first written above.

**TEMPORARY CONTRACT EMPLOYEE**

By: *Jay Sakima*  
*Legal Signature of Employee*

6-15-09  
*Date*

\_\_\_\_\_  
*Type Legal Name of Employee*

**Myron B. Thompson Academy (MBTA)**

I certify that these services are special or unique or essential to the public interest and that, because of circumstances surrounding their fulfillment, personnel to perform the services cannot be obtained through normal civil service recruitment procedures and that this contract period does not exceed one year. Pursuant to Section 76-12 (2), Hawaii Revised Statutes, the services are exempt from the State civil service. This contract complies with Chapters 84 and 103D of the Hawaii Revised Statutes.

Reviewed and recommended:  
By: *Diana Oshiro*  
*Signature of Requestor (Principal)*

6/15/09  
*Date*

Diana Oshiro, Principal  
*Type Name of Requestor and Title*

Approved:  
By: *M. Clew*  
*Chairperson of MBTA Board*

6/14/09  
*Date*

Office or School :	<u>Myron B. Thompson Academy (MBTA)</u>		
Name :	_____ <i>(Last, First, Middle Initial)</i>		
SSN :	_____ - _____ - _____	Sex	_____
Marital Status :	_____ State Exempt _____	Fed Exempt	_____
Payroll No. :	_____ Warr Distr Code _____	Pos. No.	_____
Rate :	_____ FICA Code _____	Earn Tax Cr Code	_____
UAC :	_____ - _____ - _____ - _____		

Part-time school administrative  
services assistant's contract



Myron B. Thompson Academy  
629 Pohukaina St., Ste. 3, Honolulu, HI 96813

**TEMPORARY CONTRACT EMPLOYEE**

THIS AGREEMENT, made this 1st day of July, 2009, by and between MYRON B. THOMPSON ACADEMY by its Principal, hereinafter referred to as "MBTA," and Gwen Higgins, whose residence address is \_\_\_\_\_, hereinafter referred to as "**Temporary Contract Employee.**"

**WITNESSETH**

WHEREAS, the MBTA desires to engage the **Temporary Contract Employee** to render certain technical and/or professional services described herein (or on an attached exhibit if necessary):

*The Contract Employee will provide school budget management of all finances in MBTA and those that transition into the newly created non-profit entity, MBTA, Inc.*

NOW, THEREFORE, in consideration of the mutual promises, the parties hereto covenant and agree as follows:

1. MBTA agrees to employ the **Temporary Contract Employee**, and the **Temporary Contract Employee** agrees to be employed by MBTA to perform the services hereinafter set forth for a period commencing July 1, 2009, and terminating June 30, 20010, both dates inclusive, for which the MBTA agrees to pay the **Temporary Contract Employee** Thirty-five thousand DOLLARS (\$ 35,000), said sum to be paid either lump sum or in installments as specified below, the total amount of which shall not exceed \$ 35,000; Lump sum \_\_\_\_\_; Installments x No.     \$ \_\_\_\_\_ Per Installment/Rate. (If paid in installments, indicate number of installments and amount per installment.) Payments will be made on a semi-monthly schedule on the 5<sup>th</sup> and 20<sup>th</sup> day of each month.
2. The **Temporary Contract Employee** agrees to faithfully and personally perform under the supervision of and in a manner satisfactory to MBTA and in such manner MBTA may from time to time direct.
3. The **Temporary Contract Employee** shall not be entitled to any sick leave, vacation leave or health fund benefits provided under Chapters 79 and 87, H.R.S. Nor shall the **Temporary Contract Employee** be entitled to retirements benefits under Chapter 88, H.R.S.
4. The **Temporary Contract Employee** understands that there is no expectation of renewal or extension of this Agreement beyond the termination date of the Agreement.



Either party hereto may terminate this Agreement at any time, by giving ten (10) calendar days prior written notice to the other; and the **Temporary Contract Employee** upon such termination shall be entitled to only such payment as shall have accrued at the time of such termination.

5. The **Temporary Contract Employee** shall comply with fingerprinting and background check requirements in compliance with Chapter 846-43, H.R.S., as a condition of employment.
6. At the termination of this Agreement in any manner, the payment to **Temporary Contract Employee** of compensation earned to the date of such termination shall be in full satisfaction of all claims against **MBTA**.
4. IN WITNESS WHEREOF, **MBTA** and the **Temporary Contract Employee** have executed this Agreement of temporary employment as of the date first written above.

**TEMPORARY CONTRACT EMPLOYEE**

By: *Guion A. Higgins* \_\_\_\_\_  
*Legal Signature of Employee* Date

\_\_\_\_\_  
*Type Legal Name of Employee*

**Myron B. Thompson Academy (MBTA)**

I certify that these services are special or unique or essential to the public interest and that, because of circumstances surrounding their fulfillment, personnel to perform the services cannot be obtained through normal civil service recruitment procedures and that this contract period does not exceed one year. Pursuant to Section 76-12 (2), Hawaii Revised Statutes, the services are exempt from the State civil service. This contract complies with Chapters 84 and 103D of the Hawaii Revised Statutes.

Reviewed and recommended:  
 By: *Diana Oshiro* \_\_\_\_\_ 6/19/09 \_\_\_\_\_  
*Signature of Requestor (Principal)* Date

Diana Oshiro, Principal  
*Type Name of Requestor and Title*

Approved:  
 By: *M. B. Thompson* \_\_\_\_\_ 6/14/09 \_\_\_\_\_  
*Chairperson of MBTA Board* Date

Office or School :	<u>Myron B. Thompson Academy (MBTA)</u>		
Name :	<u>(Last, First, Middle Initial)</u>		
SSN :	_____ - _____ - _____	Sex	_____
Marital Status :	_____ State Exempt _____	Fed Exempt	_____
Payroll No. :	_____ Warr Distr Code _____	Pos. No.	_____
Rate :	_____ FICA Code _____	Earn Tax Cr Code	_____
UAC :	_____ - _____ - _____ - _____		

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## Responses of the Affected Agencies

### Comments on Agency Responses

We transmitted a draft of this report to the Charter School Review Panel, Charter School Administrative Office, Board of Education (BOE) and Department of Education (DOE) on December 2, 2011. A copy of the transmittal letter to the DOE is included as Attachment 1. The superintendent of education submitted a response on December 8, 2011 (Attachment 2), noting the department has no authority to mandate that charter schools follow procedures governing DOE school operations. The BOE opted not to respond. The panel's and office's responses, submitted on December 9, 2011, are included as Attachments 3 and 4, respectively.

The panel supports our recommendations that strengthen the performance of the panel and the operations of the charter schools. At the same time, however, it disputes three findings by offering information it feels negates our conclusions. The panel misunderstands our report. Our recommendations address weaknesses we found after examining the evidence; if the panel agrees with our recommendations, it must accept the underlying evidence that constitutes the elements of the finding. For example, the panel states that it has never doubted that the detailed implementation plan (DIP) is the charter school's contract with the State. Yet, contrary to the panel's response, our interviews with the then-panel chair revealed that she and other panel members were unclear and had in fact asked the deputy attorney general for an opinion earlier in the year. We reviewed the charter schools law and found the law to be clear on its face. Thus, we sought to address the panel's confusion by our recommendation to develop guidelines for the DIPs, which are the charter schools' performance contracts with the State.

Further, the panel offers information relating to monitoring and overseeing the charter school system during its board meetings. The panel again misses our point. Our audit found that by not requiring charter school DIPs to establish clear student performance expectations, the panel lacks the means to assess whether the schools are adequately meeting student performance outcomes. It follows, then, that our recommendation speaks to the need for panel-collected, -analyzed, and -verified data to measure student academic growth toward meeting or exceeding state performance standards.

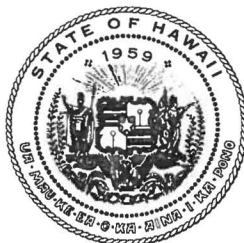
The office generally agrees with our recommendations that it provide support to the panel. It also clarifies that it does not distribute funds to the charter schools based on the enrollment reported in their annual self-evaluation (ASE) reports. The office, too, misses our point. Our

---

example of the inconsistent enrollment numbers illustrates simple inaccuracies in the ASEs and does not suggest that the office erred in its distribution of funds.

Finally, the office solicited comments from the schools referenced in our report and attached their comments to its response. It clarified, however, that it did not confirm the information; thus, it is unverified. As such, we elect to exclude the schools' comments from the office's response. By contrast, the evidence supporting our findings was obtained following strict audit procedures and guidelines. During our fieldwork, we visited each school and requested supporting documents, analyzed those documents, and interviewed school staff to gain an understanding of their documentation processes. Thereafter, our evidence was independently verified according to our audit procedures. Accordingly, we stand by our findings.

STATE OF HAWAI'I  
OFFICE OF THE AUDITOR  
465 S. King Street, Room 500  
Honolulu, Hawai'i 96813-2917



MARION M. HIGA  
State Auditor

(808) 587-0800  
FAX: (808) 587-0830

December 2, 2011

**COPY**

The Honorable Kathryn Matayoshi  
Superintendent  
Department of Education  
Queen Lili'uokalani Building  
1390 Miller Street  
Honolulu, Hawai'i 96813

Dear Ms Matayoshi:

Enclosed for your information are three copies, numbered 6 to 8, of our confidential draft report, *Performance Audit of the Hawai'i Public Charter School System*. We ask that you telephone us by Tuesday, December 6, 2011, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Friday, December 9, 2011.

The Board of Education, Charter School Administrative Office, and Charter School Review Panel, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa  
State Auditor

Enclosures



NEIL ABERCROMBIE  
GOVERNOR



KATHRYN S. MATAYOSHI  
SUPERINTENDENT

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 6, 2011

RECEIVED

2011 DEC -8 AM 8:37

The Honorable Marion M. Higa  
State Auditor  
Office of the Auditor  
465 South King Street, Room 500  
Honolulu, HI 96813-2917

OFFICE OF THE AUDITOR  
STATE OF HAWAII

Dear Ms. Higa:

The Department of Education (DOE) has received your draft of the *Performance Audit of the Hawaii Public Charter School System*. Thank you for the opportunity to respond to your report, even though the DOE was not the auditee.

Although the Department has comprehensive procedures to govern the DOE school operations, we do not have the authority to mandate that the charter schools follow them.

Please feel free to call Denise Yoshida, DOE Internal Audit Director, at 586-3325 if you have any questions.

Very truly yours,

Kathryn S. Matayoshi  
Superintendent

KSM:DY:jl



**State of Hawaii**  
**Charter School Review Panel**  
 73-4460 Queen Ka'ahumanu Hwy. #128  
 Kailua-Kona, Hawaii 96740  
 Tel: 808-721-8615 Email: [csrp.hi@gmail.com](mailto:csrp.hi@gmail.com)

December 8, 2011

Ms. Marion Higa  
 Office of the Auditor  
 Kekanao'a Building  
 465 South King Street, Room 500  
 Honolulu, HI. 96813-2917

RECEIVED

2011 DEC -9 PM 1:30

OFC. OF THE AUDITOR  
 STATE OF HAWAII

Dear Ms. Higa,

The Charter School Review Panel appreciates this opportunity to respond to the "Performance Audit of the Hawaii Public Charter School System." Some of the recommendations in this report align with recommendations by a consultant (from the National Association of Charter School Authorizers) the Panel engaged to analyze the Panel's operations and practices, rating them against authorizer best practices.

The Panel, made up of twelve volunteers appointed by the Board of Education, supports all recommendations in both reports that strengthen the performance of the Panel and the operations of the charter schools.

The Panel disputes three findings: (1) The Panel disputes the finding that "focusing on its duties as a charter school authorizer and re-authorizer, the panel has delegated core monitoring and reporting responsibilities to the local school boards, effectively removing itself – and outside oversight – from the charter school system." (p.13), and (2) the Panel disputes the finding that the Panel "does not consider the DIP [Detailed Implementation Plan] to be the basis for a performance contract" (p. 15), and (3) the Panel disputes the finding that "because the panel does not have rulemaking authority, the charter schools are not required to follow its policies." (p. 16).

1. The Panel provides oversight of charter schools to the extent allowable by law. During SY09-10, the focus year of the audit, chartering of new schools had been suspended by the Panel for a variety of reasons; therefore, virtually all of the Panel's meeting time (approximately 9-12 hours per month) was devoted to monitoring and overseeing the system.

Minutes of the Panel's twice-monthly meetings show the Panel worked with charter schools on issues ranging from student performance to local school board shortcomings. For instance, the Panel was well aware of Halau Ku Mana's drastic drop in enrollment (p.24), the result of tensions and turmoil among the school's administration, its Local School Board, and the school's non-profit support organization. In fact, in SY08-09, The Panel placed the school on a path leading to probation, and in SY09-10, it worked with the school to help it resolve its issues at

seven separate Panel meetings. In all, during SY09-10, the Panel agendized (either at its general meetings or its Fact Finding Committee meetings) complaints/concerns about eighteen different schools.

In addition, the Panel assists as needed with investigations of charter schools by the AG's Office and the Ethics Commission. The Panel referred its concerns about Myron B. Thompson Academy to both the Ethics Commission and to the Attorney General's Office for investigation in April, 2011. The Panel revoked the charter of a school in SY 08-09, but because the Board of Education did not have necessary administrative rules in place, the Panel's action was reversed in court. In addition, the Panel asked a charter school to relinquish its charter after the school closed a month early in April, 2010 because of financial insolvency. The school refused, and because HRS §302B-14(d)(5) states "for [a school's] deficiencies related to financial plans, a charter school shall be allowed one year to develop a sound financial plan," the Panel was unable to close the school.

2. The Detailed Implementation Plan (DIP) is the charter school's contract with the State of Hawaii. The Panel has never doubted this fact. However, since HRS §302B-1 states the DIP is the "basis" for a performance contract, the Panel sought clarification regarding this from the AG's Office. The clarification confirmed the Panel's position that the DIP is the school's contract with the State.

3. The Panel is not an administrative rule-making body. HRS §302B-3(g) clearly states "the panel shall establish operating procedures," which the Panel has done. Please see the following email response to a school director from then chair, Ruth Tschumy, dated May 23, 2011 (name of school director has been removed):

Aloha \_\_\_\_\_,

Despite statements by you and others to the contrary over the years, the panel is not an administrative rule-making body. This is direct from the AG's office and the legislature, and has been so since the establishment of the panel. We are a panel, not a board. We have to have our own internal operating policies and procedures . . .but we cannot make administrative rules.

Aloha,

Ruth

Though a few schools have questioned whether the Panel has the authority to provide oversight without administrative rules, the Panel is clear that it is not an administrative rule-making body and that charter schools must comply with Panel directives.

#### Barriers to Better Oversight by the Charter School Review Panel

1. HRS §302B-1(11) states that schools must comply with "all panel directives, policies, and procedures." However, HRS §302B-7(c) states "local school boards shall be the autonomous governing body of its charter school and shall be responsible for the financial and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws." The Panel has urged the legislature to remove the word "autonomous" from the description of the local school board so that the Panel's authority to provide oversight of schools and local school boards is clearly established.

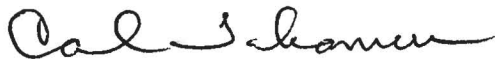
2. HRS §302B-3(10) gives the panel the responsibility to “evaluate any aspect of a charter school that the panel may have concerns with and take appropriate action, which may include probation or revocation.” However, HRS §302B-14(d)(4,5,6) states that schools must be allowed two years to correct deficiencies in student performance, one year to correct deficiencies in financial viability, and (may) be allowed one year to correct organizational viability. In addition, Board of Education Administrative Rule (Chapter 8-500) entitled “Hawaii Public Charter Schools Probation and Revocation Procedures” spells out a very lengthy process that could take as long as one year for the Panel to place a school on probation. The Panel lacks tools to take swift action (except in the case of immediate health or safety concerns) to bring a school into compliance with applicable Panel directives and State law.

3. Twenty-seven of Hawaii’s thirty-one charter schools were chartered by the Board of Education, most around the year 2000. However, the Panel did not come into existence until 2006. So for six years, these charter schools were accustomed to operating in relative isolation. As a result, a few of these schools find the Panel’s oversight intrusive. The Panel’s NACSA consultant concluded there was a high level of non-compliance by some of these schools.

4. While the Charter School Administrative Office has traditionally defined its role as support for the schools, the Panel believes the CSAO, in addition, must assist the Panel in monitoring the schools and must provide the Panel with the staff it needs, as recommended by NACSA, to fulfill its oversight and authorizing responsibilities.

Thank you.

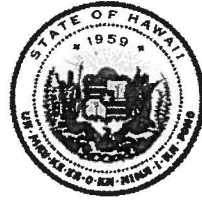
Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Takamura".

Carl Takamura, Chair  
Charter School Review Panel



NEIL ABERCROMBIE  
GOVERNOR



ROGER MCKEAGUE  
EXECUTIVE DIRECTOR

STATE OF HAWAII  
CHARTER SCHOOL ADMINISTRATIVE OFFICE  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: 586-3775 Fax: 586-3776

December 9, 2011

Ms. Marion Higa  
Office of the Auditor  
Kekanao'a Building  
465 South King Street, Room 500  
Honolulu, HI. 96813-2917

RECEIVED

2011 DEC 12 PM 2:30

OFF. OF THE AUDITOR  
STATE OF HAWAII

Dear Ms. Higa,

The Charter Schools Administrative Office thanks you for the opportunity to respond and comment on the draft report titled "Performance Audit of the Hawaii Public Charter School System."

In general, the Charter Schools Administrative Office (CSAO) concurs with the recommendations that the CSAO provide support to the Charter School Review Panel with respect to assessment of student performance (recommendation 1b) and that the CSAO provide support and assistance in monitoring and overseeing the public charter schools (recommendation 1e).

With respect to the finding labeled "**Local school boards' lax oversight results in meaningless student performance data**" (pages 21 & 22): the finding that one school's enrollment reported on their ASE did not match the supporting documents available at the school for enrollment. For the purposes of clarity and completeness, the CSAO does not distribute funds to the charter schools based on the enrollment they report in their ASE. The enrollment used for funding purposes is ultimately determined by the CSAO by obtaining detailed enrollment reports from the school based on data in their student information systems and reconciling that data to the state-wide student enrollment system maintained by the Department of Education. In the specific case cited in your report the "funded" enrollment for the school in question was 521 students.

The CSAO is also enclosing copies of the responses we have received from charter schools that were specifically identified in your report. The CSAO has reviewed these responses and in many cases the schools are identifying instances of what they believe

are factual errors in the report. As a result the CSAO is enclosing those responses as submitted by the individual schools. The CSAO has not confirmed the information contained within these responses.

Sincerely,

A handwritten signature in blue ink that reads "Roger McKeague". The signature is written in a cursive style with a large initial 'R'.

Roger McKeague, Executive Director  
Charter Schools Administrative Office



# **Performance Audit of Hawai'i Public Charter School System**

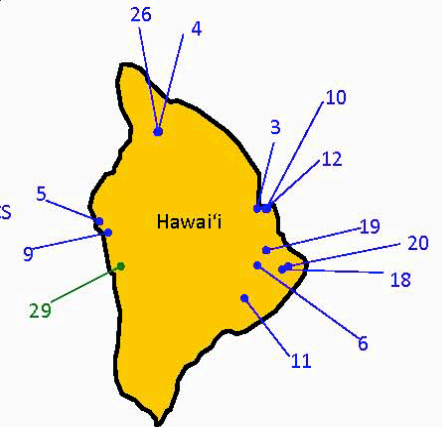
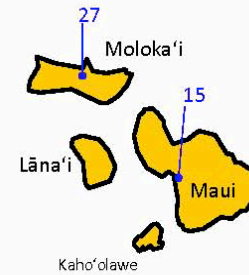
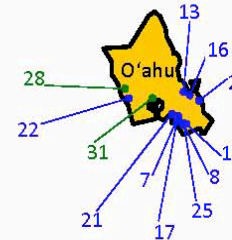
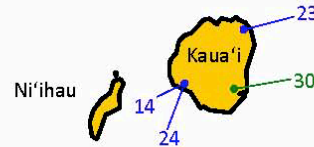
Report No. 11-3  
December 2011

## Background

### **Hawai'i public charter schools**

- First charter school: 1995
- SY2009-10: 31 schools, 7,800 students

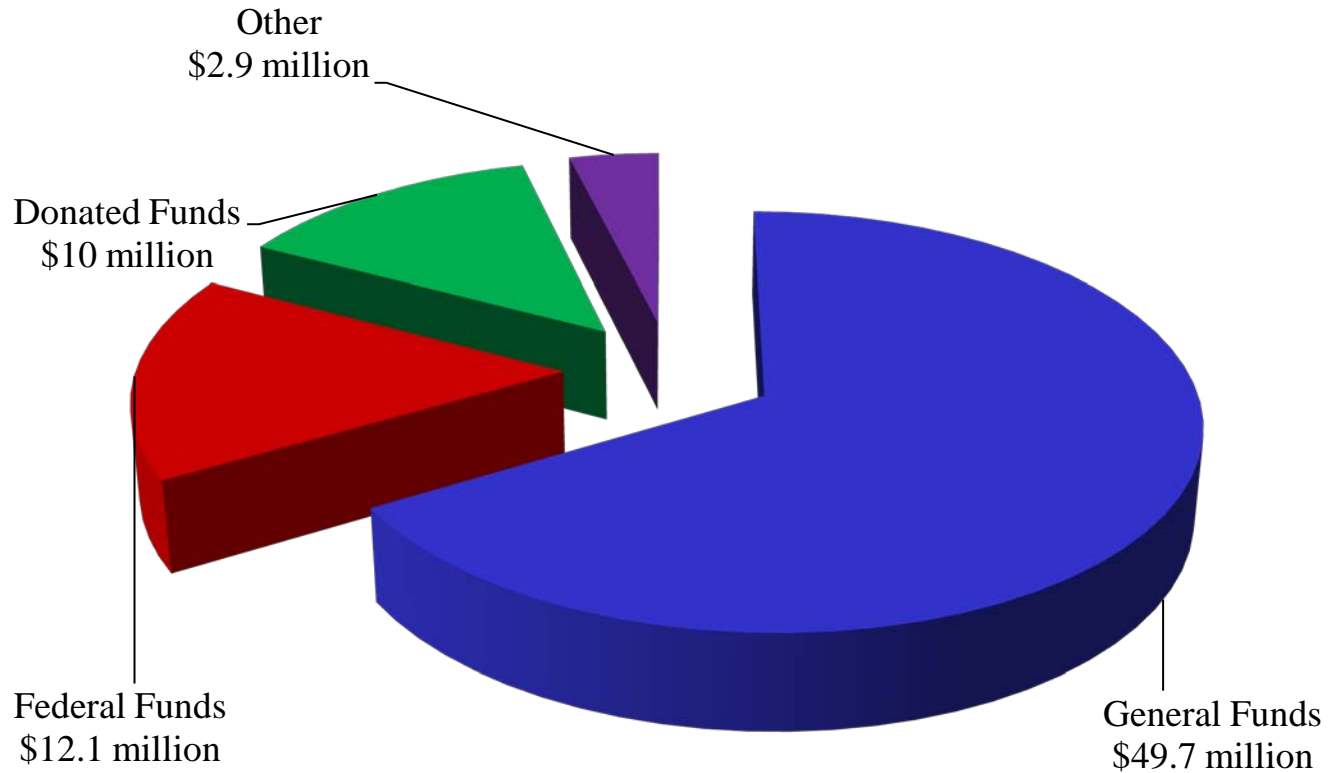
# Hawai'i Public Charter Schools



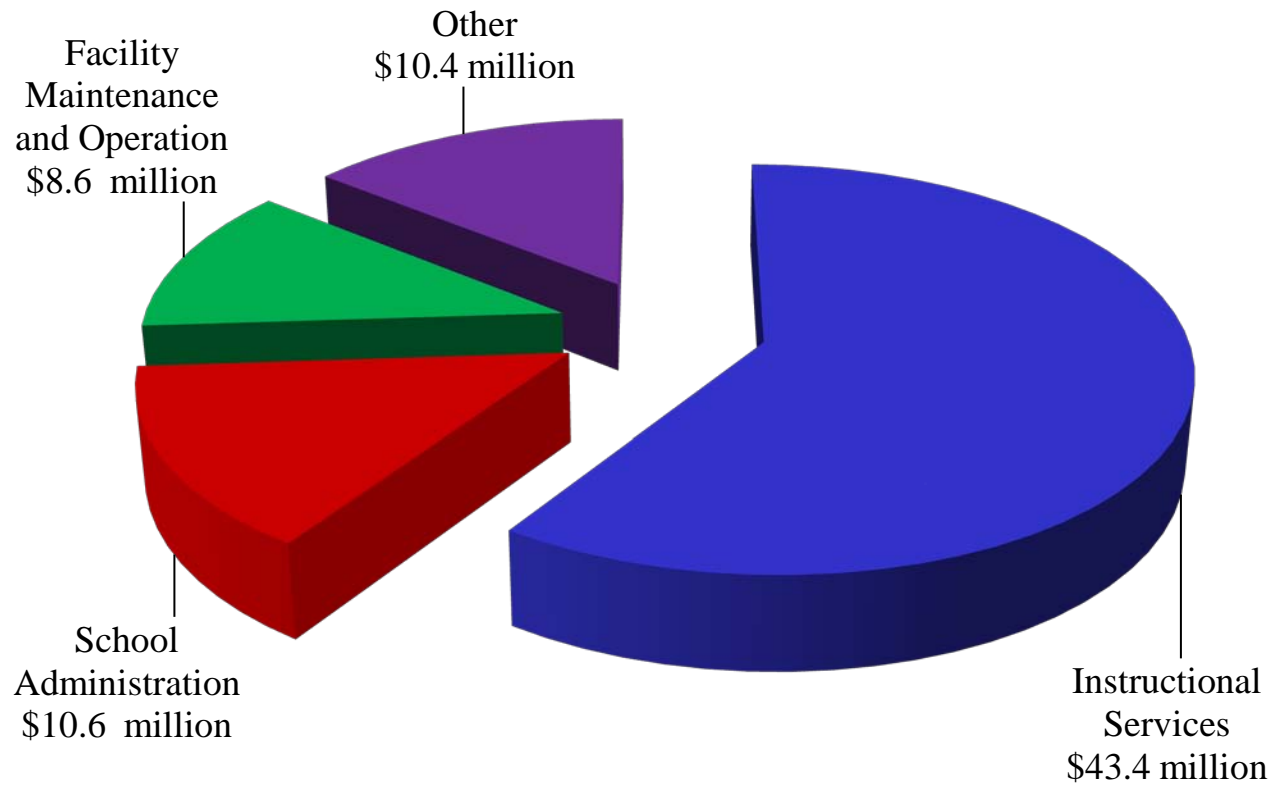
1. Wai'ālae Elementary Public Charter School (PCS)
2. Lanikai Elementary PCS
3. Connections PCS
4. Kanu o ka 'Āina PCS
5. West Hawai'i Explorations Academy PCS
6. Waters of Life PCS
7. Voyager PCS
8. Hālau Kū Māna PCS
9. Innovations PCS
10. Ke Ana La'ahana PCS
11. Volcano School of Arts & Sciences PCS
12. Ka 'Umeke Ka'eo PCS
13. Hakipu'u Learning Center PCS
14. Ke Kula Ni'ihau O Kekaha Learning Center PCS
15. Kihei PCS
16. Ke Kula 'o Samuel M. Kamakau Laboratory PCS
17. Myron B. Thompson Academy PCS
18. Hawai'i Academy of Arts & Science PCS
19. Ke Kula 'o Nawahiokalani'opu'u Iki Laboratory PCS
20. Kua O Ka La PCS
21. Halau Lokahi New Charter School

22. Ka Waihona o ka Na'auao PCS
23. Kanuikapono Learning Center PCS
24. Kula Aupuni Ni'ihau A Kahelelani Aloha PCS
25. Education Laboratory PCS
26. Waimea Middle Public Conversion CS
27. Kualapu'u Elementary PCS
28. Kamaile Academy PCS
29. Kona Pacific PCS
30. Kawaikini PCS
31. Hawai'i Technology Academy PCS

## Charter School Revenues FY2010 Total: \$74.7 million

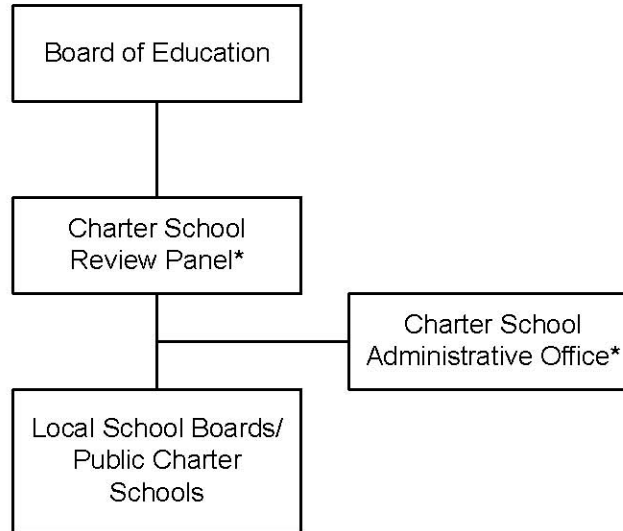


## Charter School Expenditures FY2010 Total: \$73 million



## Background (cont'd)

# Hawai'i Public Charter School System



\*Administratively attached to the Department of Education for administrative purposes only.



**Background** (cont'd)

**Board of Education**

- Formulates statewide education policy
- Adopts student performance standards
- Charter school authorizer until 2007
- Appoints Charter School Review Panel

**Background** (cont'd)

**Charter School Review Panel**

- Issues/revokes charters
- Oversees/monitors charter schools
- Holds charter schools accountable for statewide performance standards
- Appoints Charter School Administrative Office executive director

**Background** (cont'd)

**Charter School Administrative Office**

- Manages charter school system
- Supports the panel

**Background** (cont'd)

**Charter School Local School Board**

- Governs charter school
- Responsible for financial and academic viability of school

**Background** (cont'd)

**Charter Schools and Local School Boards**

- Must follow state law:
  - Collective Bargaining, Ch. 89, HRS
  - State Ethics Code, Ch. 84, HRS
- Exempt from:
  - Hawai'i Public Procurement Code, Ch. 103D, HRS

## Audit Objectives

1. Assess the overall effectiveness of charter schools in meeting performance standards for public schools
2. Determine whether charter schools are in compliance with applicable laws, rules, regulations and charters
3. Make recommendations as appropriate



## Scope and Methodology

**Charter School System audit focus: the promise of flexibility for equal or better performance**

- Academic performance
- Public accountability

**Scope and Methodology** (cont'd)

**School selection criteria (10 of 31 schools):**

- Size
- Location
- Authorizer
- IT system
- Conversion or start-up
- Hawaiian-based curriculum focus
- AYP status and scores
- # of core classes taught by non-HQTs

# 1. Education Laboratory



## 2. Hakipu'u Learning Center



### 3. Hālau Kū Māna





## 4. Hawai'i Academy of Arts and Science





## 5. Hawai'i Technology Academy



## 6. Kamaile Academy



## 7. Kanu o ka 'Āina



## 8. Kanuikapono Learning Center





## 9. Myron B. Thompson Academy



## 10. West Hawai'i Explorations Academy





**Hawai'i Public Charter  
School System:  
Autonomy Without  
Accountability**

## Summary of Findings

1. The Charter School Review Panel fails to hold charter schools accountable for student performance.
2. Charter school operations fail to comply with state law and principles of public accountability.

**Finding 1**

**Charter School Review Panel fails to hold charter schools accountable for student performance**

**Finding 1** (cont'd)

**Panel uses 2 documents for assessment:**

1. Detailed Implementation Plan (DIP)
2. Annual Self-Evaluation (ASE)

**Finding 1** (cont'd)

**Detailed Implementation Plan**

- Charter application
- Specifies charter school's purpose
- Includes curricula and instructional framework
- Basis for performance contract

**Finding 1** (cont'd)

**Panel's misinterpretation of state law removed accountability from the charter school system**

- Panel doubts charter school DIPs are performance contracts
- But law is clear that DIP is a performance contract
  - Panel's deputy AG agrees



**Finding 1** (cont'd)

**Panel's misinterpretation of state law** (cont'd)

- Panel unsure if it can require schools to update their DIPs
- But law is clear that charter schools must comply with all panel directives, policies, and procedures

**Finding 1** (cont'd)

**Charter schools are subject to BOE's minimum academic performance standards**

- Hawai'i content and performance standards (HCPS)
- Hawai'i State Assessment (HSA) measures student attainment of performance standards
- All public and charter schools must meet or exceed standards

**Finding 1** (cont'd)

**Panel does not know whether charter school  
DIPs comply with applicable laws or best  
practices**

- Panel has not assessed 31 DIPs
- Panel does not know if schools are meeting student performance outcomes

**Finding 1** (cont'd)

**Panel lacks an accountable and robust process for measuring student academic growth**

- Relies only on Annual Self-Evaluation (ASE)
- ASE data is not reliable and meaningful
- Panel should not rely on school's self-reporting (NACSA)

**Finding 1** (cont'd)

**Panel does not collect, analyze, and verify ASE data**

- Panel does not collect its own data
- Panel does not provide instructions or guidance for completing ASE
  - 1 school principal prepared a section of the ASE “off the top of [his] head”

**Finding 1** (cont'd)

**Panel's feedback on ASE is meaningless**

- “Continue efforts to raise math scores”
- “Continue to increase the number of HQT”
- “Consider overlapping local school board member's terms”



**Finding 1** (cont'd)

**Local school boards' lax oversight results in meaningless student performance data**

- **10 of 10 schools** – no consistency between ASE data and supporting documents
  - **4 of 10 schools** – enrollment #s
  - **3 of 10 schools** - waitlisted #s

**Finding 1** (cont'd)

**Enrollment discrepancy**

- **1 school** – 28 student discrepancy

Enrollment				
ASE	Support	Difference	Per Pupil Allocation	Discrepancy
549	521	28	\$5,753	\$161,084

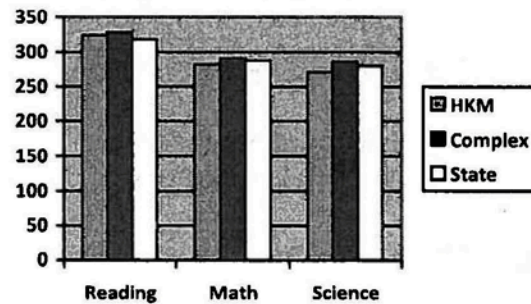
**Finding 1** (cont'd)

**Inconsistent and misleading reporting of performance data misrepresents school and student achievement**

- School reported test results for 10<sup>th</sup> grade only, not entire school

## Misleading information

❖ HSA scores



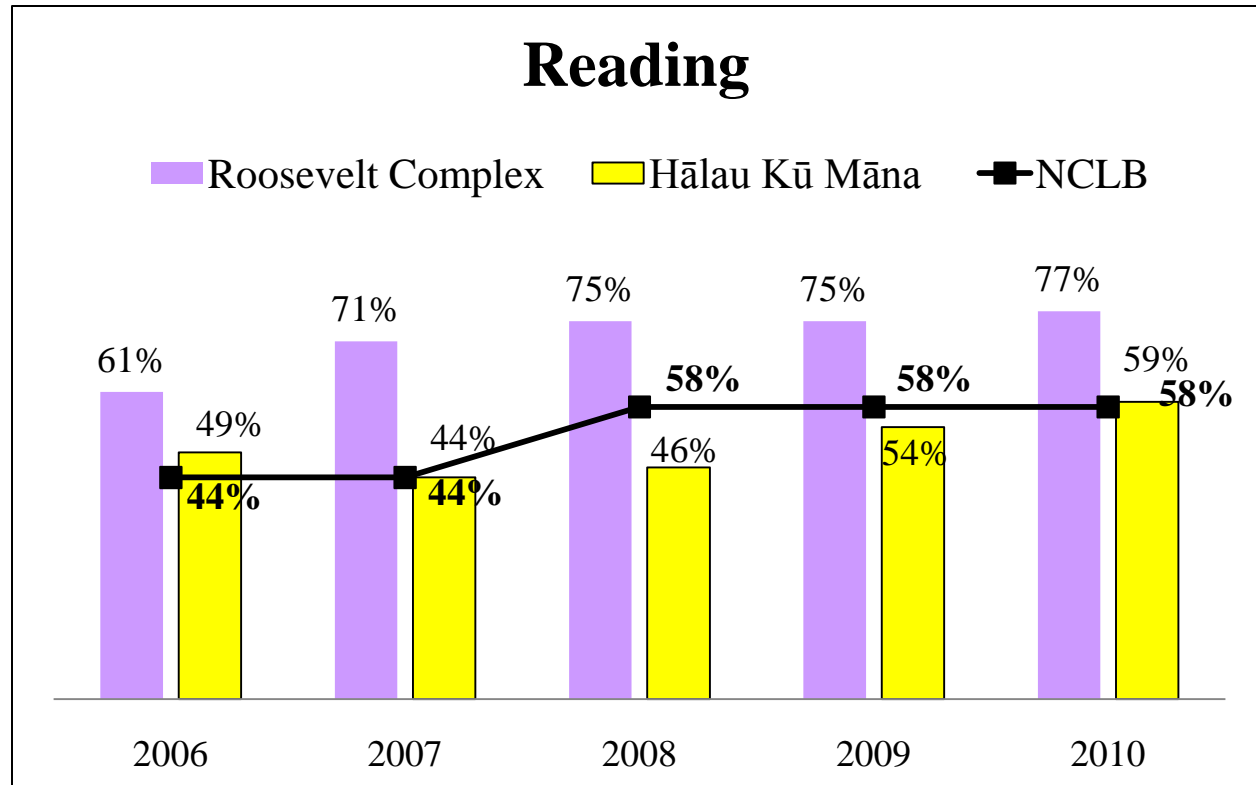
The chart above depicts HSA scores for 2009-2010 for the areas of reading, math and science. HKM's reading score is 324, higher than the state average and slightly lower than the complex. Overall, HKM is making steady progress in the language arts program and is consistently raising and/or maintaining adequate HSA scores.

In the area of math, our school scored 282. While the school has met its internal 10% proficiency goal, we are still under proficiency compared to state and complex levels by 9 to 10 points. Math remains our primary area of concern.

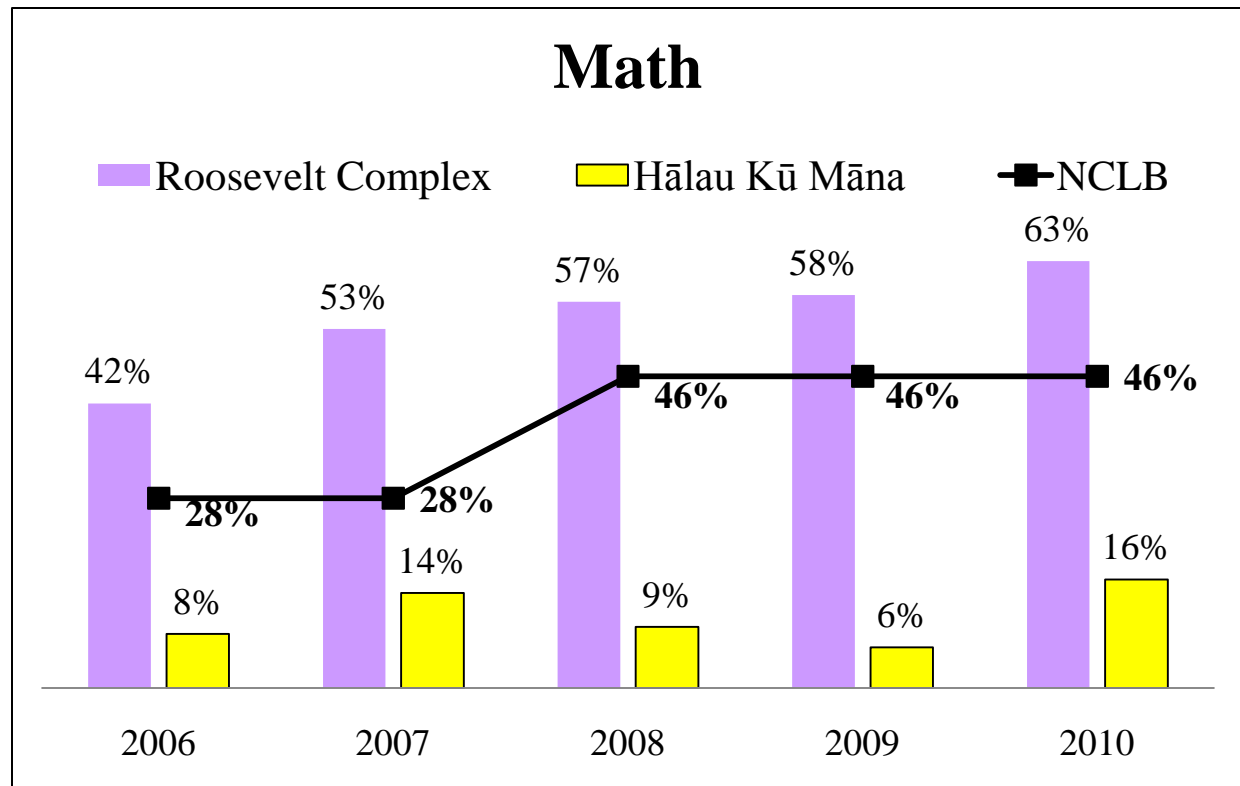
Science scores were placed at 271, meaning that we are well below proficiency. Science remains another area of concern.

While HKM is not yet proficient in science and math, the point spread represented in the chart is relatively narrow. Our school is focused on meeting AYP through quality benchmark-driven instruction, targeted intervention, and focused test preparation.

## Hālau Kū Māna's reading scores are much lower than Roosevelt Complex



## Hālau Kū Māna's math scores also are much lower than Roosevelt Complex





## Myron B. Thompson Academy omitted critical data (highlighted)

Grade	Year	HSA Reading: Percent Proficiency		HSA Mathematics: Percent Proficiency		HSA Science Percent Proficiency		HSA Writing: Percent Proficiency		TerraNova: Reading % Avg. & Above		TerraNova Math % Avg. & Above	
		School	State	School	State	School	State	School	State	School	State	School	State
3	2007-08	%	61.9%		52.6%						73%		74%
	2008-09	60 %	62%	13 %						44%		31%	
	2009-10	%		%						%		%	
4	2007-08		61.4%		49.0%			%	%		77%		76%
	2008-09	74%		52%				%	%	62%		53%	
	2009-10	%		%				%	%	%		%	
5	2007-08	%	56.7%	%	44.0%	%	%				79%		78%
	2008-09	77%		39%		%	%			62%		56%	
	2009-10	%		%		%	%			%		%	
6	2007-08		57.2%		42.1%			%	%		77%		73%
	2008-09	82%		32%				%	%	58%		59%	
	2009-10	%		%				%	%	%		%	
7	2007-08		64.3%		40.2%	%	%				70%		72%
	2008-09	70%		33%		%	%			49%		42%	
	2009-10	%		%		%	%			%		%	
8	2007-08	%	65.6%	%	34.7%						80%		76%
	2008-09	94%		50%						72%		73%	
	2009-10	%		%						%		%	
9	2007-08							%	%				
	2008-09							%	%				
	2009-10							%	%				
10	2007-08	%	67.4%	%	34%						77%		75%
	2008-09	100%		32%						63%		60%	
	2009-10	%		%						%		%	
11	2007-08							%	%	%	%		
	2008-09							%	%	%	%		
	2009-10							%	%	%	%		

## Omission went unnoticed by the panel

**Myron B. Thompson Academy  
SY 2009-2010 Annual Self Evaluation Feedback**

### **Strengths of Self Evaluation:**

- Impressive list of outstanding student achievements.
- Detailed analysis of assessment data.
- Included explanations of “Other” on the Financial Template.
- Increases in graduation rates.
- Clear administrative/governance benchmarks.

**Finding 1** (cont'd)

**Panel lacks support from the office to carry out its critical functions**

- Panel claims no resources or time to validate and analyze ASE data
- Panel maintains the law is ambiguous re: office's responsibility to panel

**Finding 1** (cont'd)

**By law, office is responsible for management of the charter school system**

- Office can assist with collecting and verifying ASE data
- We verified data by:
  - Visiting schools
  - Requesting supporting documents
  - Analyzing documents
  - Interviewing school staff

**Finding 1** (cont'd)

**Panel's reporting is unclear on charter schools meeting the minimum academic requirements**

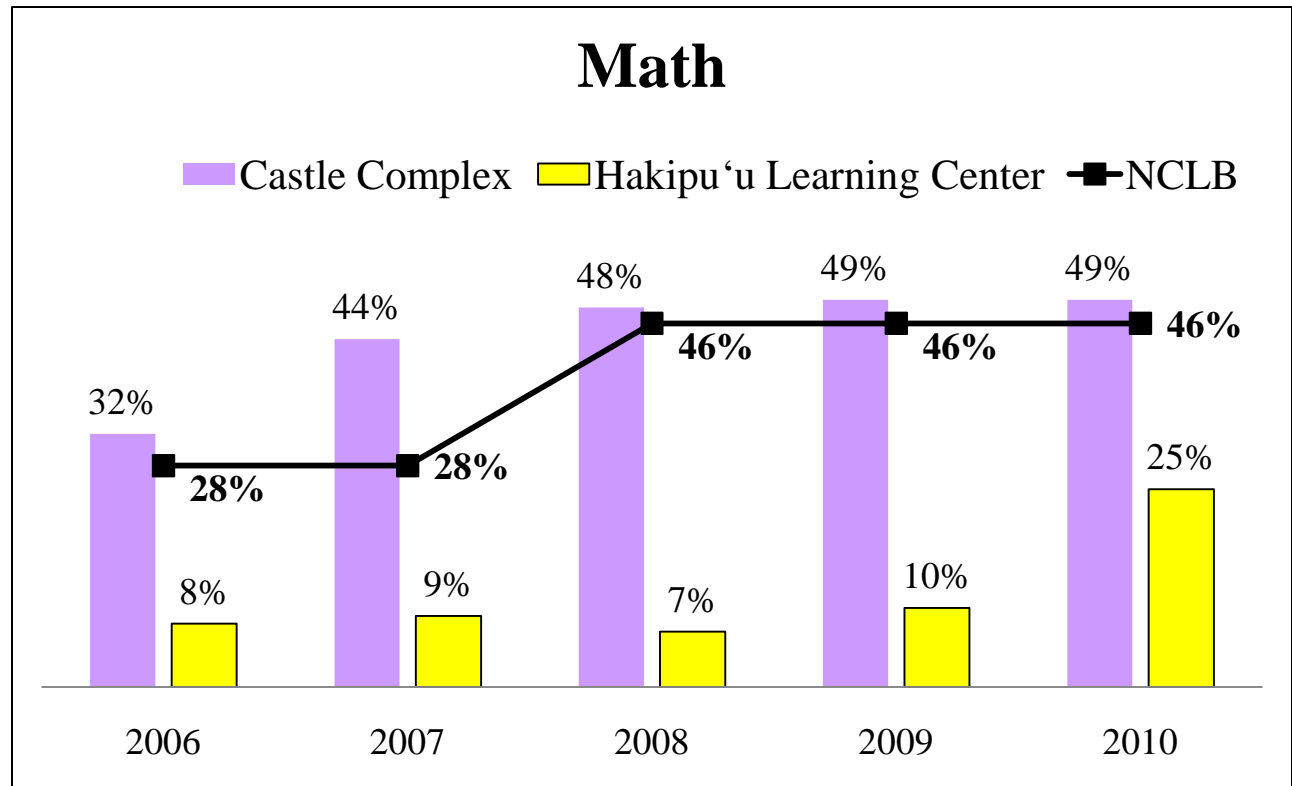
- We collected, analyzed, and compared 10 charter schools to the nearby DOE complex
- Analysis presented in report

**Finding 1** (cont'd)

**Four schools failed to meet federal No Child Left Behind testing standards**

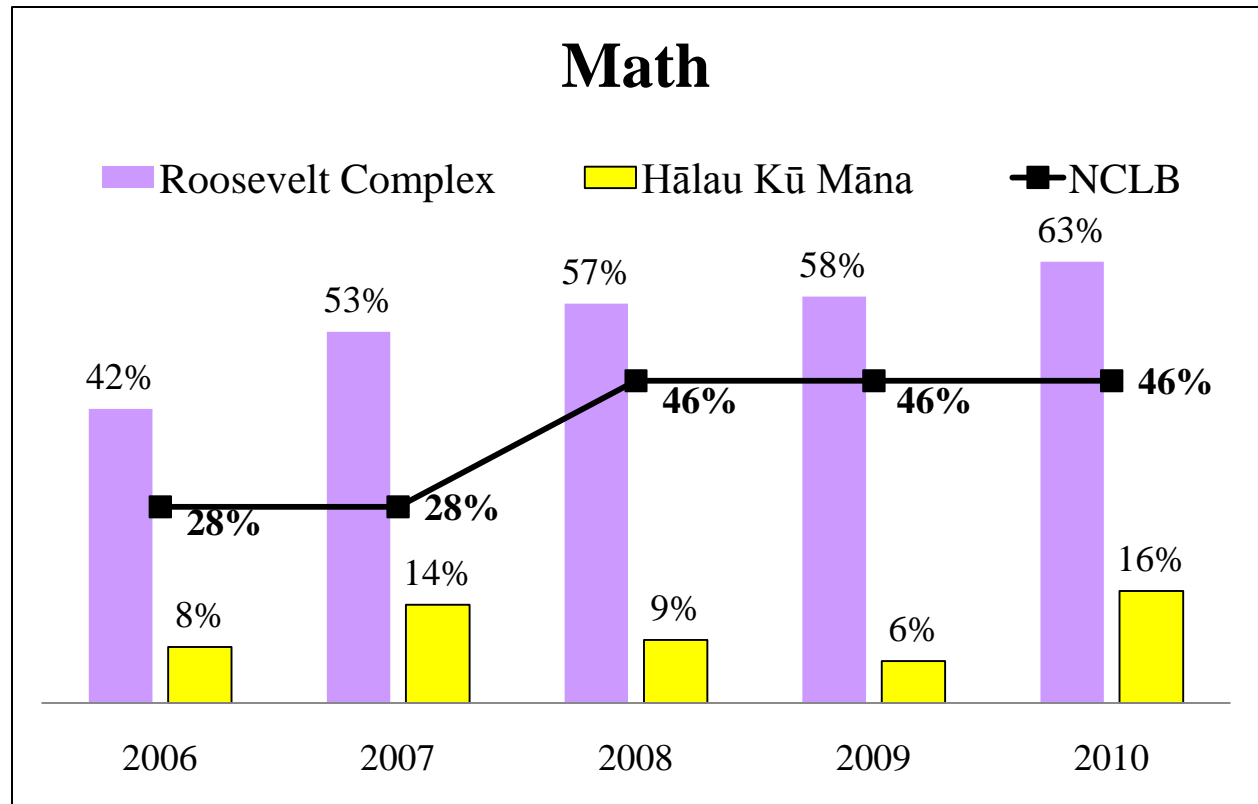
- Hakipu'u Learning Center
- Hālau Kū Māna
- Kamaile Academy
- Kanu o ka 'Āina

## Hakipu'u Learning Center

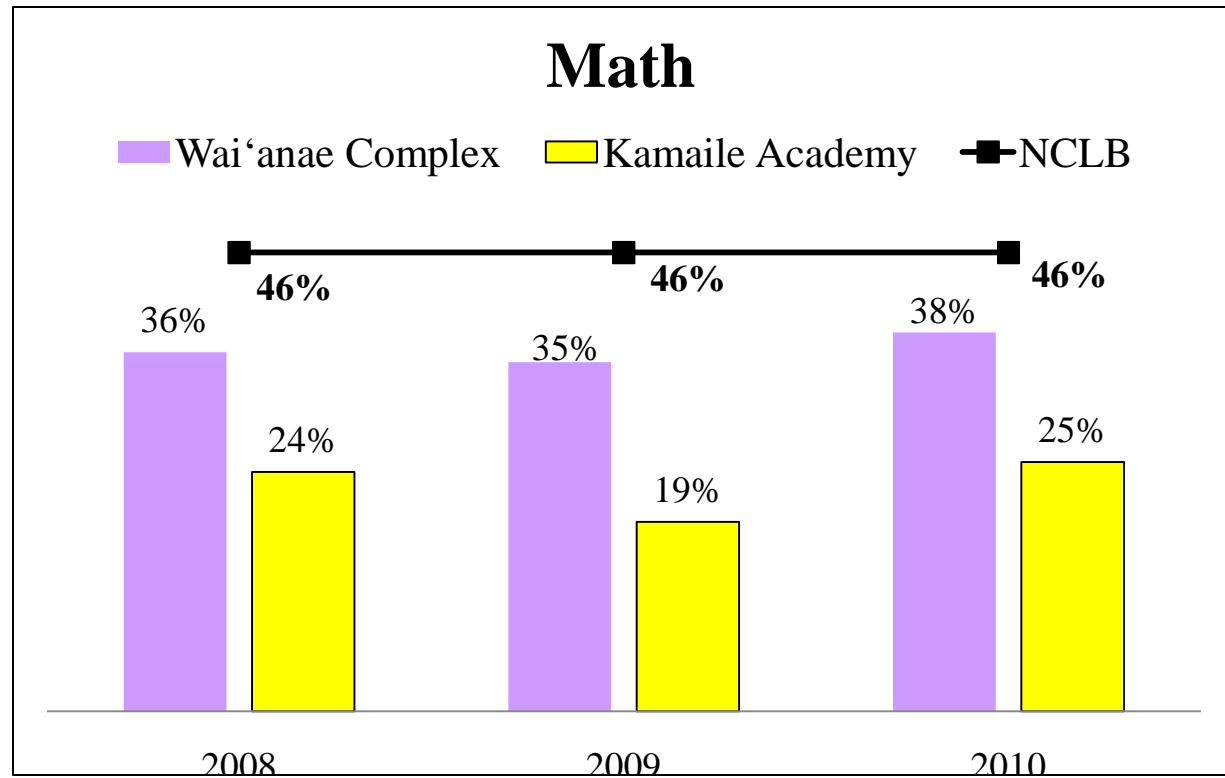




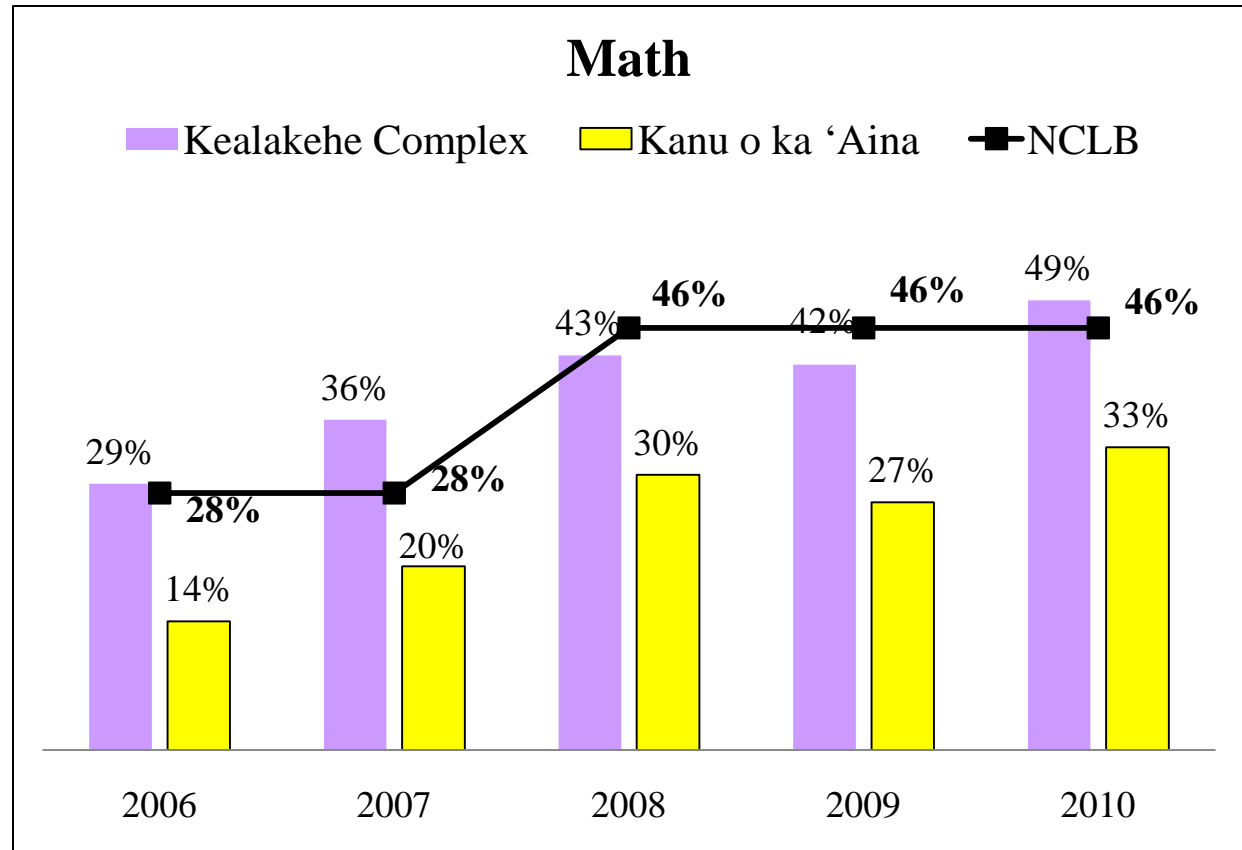
## Hālau Kū Māna



## Kamaile Academy

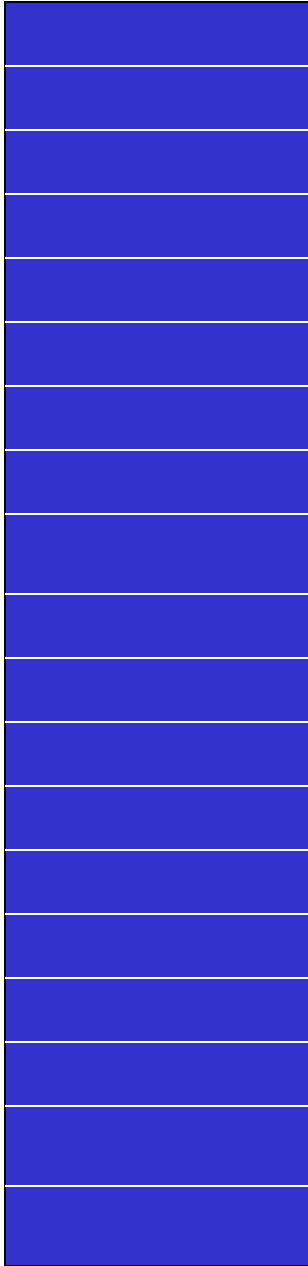


## Kanu o ka 'Āina



**Finding 2**

**Charter school operations fail to comply with state law and principles of public accountability**



**Finding 2** (cont'd)

**Like other public schools, charter schools must follow state law**

- Charter school employees are public employees subject to:
  - Collective bargaining
  - State Ethics Code

**Finding 2** (cont'd)

**Collective bargaining, the State's employment framework, still applies to charter schools**

- Charter school employees must be assigned to a BU
- Local school boards can negotiate supplemental agreements

**Finding 2** (cont'd)

**Charter schools must use public funds in an ethical manner**

- Public officers and employees:
  - Must exhibit the highest standards of ethical conduct (State Constitution)
  - Are subject to the State Ethics Code, including conflict of interest provision



**Finding 2** (cont'd)

**Charter schools must use public funds in an ethical manner** (cont'd)

- Management plays a key leadership role:
  - Establishing and maintaining an ethical tone
  - Providing guidance for proper behavior
  - Removing temptation for unethical behavior
  - Providing discipline

**Finding 2** (cont'd)

**Myron B. Thompson Academy operations border on fraud, waste, and abuse**

- Possibly fraudulent, abusive practices

**Finding 2** (cont'd)

**Thompson Academy improperly increased employee pay**

- Salaries of part-time employees doubled and tripled
  - 4 employees collectively received \$122,000 under temporary employee contracts in addition to \$153,427 in base salaries

**Finding 2** (cont'd)

**Improperly compensated employees at Thompson Academy also received overpayments**

- SASA received \$8,500 overpayment
- Registrar received \$2,500 overpayment
- School intends to correct erroneous payments

**Finding 2** (cont'd)

**Differential contracts increased pay to Thompson Academy “leadership team”**

HSTA/BU 5 Employee	Base Salary	Increased Pay	Total	Increased Pay Above Base Salary (%)
Elementary VP	\$62,450	\$35,000	\$97,450	56%
Secondary VP	\$47,178	\$17,000	\$64,178	36%
Registrar (Part-time)	\$17,700	\$37,500	\$55,200	212%

HGEA/BU 3 Employee	Base Salary	Increased Pay	Total	Increased Pay Above Base Salary (%)
SASA	\$26,099	\$43,500	\$69,599	167%

**Finding 2** (cont'd)


**Thompson Academy vice-principal pay increase improper, possibly fraudulent**

- \$17,000 contract with the VP's company, Dee Island's Choice, LLC, to oversee all facilities operations
- School paid VP for entire SY2009-10
- VP retired mid-year in Dec. 2009

Finding 2 (cont'd)

Thompson Academy's improper contract with VP's company

12/21/2009 - \$17000<sup>00</sup>  
CHK. # 8019  
P.O. 1267492



Myron B. Thompson Academy  
629 Pohukaina St., Ste. 3, Honolulu, HI 96813

**TEMPORARY CONTRACT EMPLOYEE**

THIS AGREEMENT, made this 1st day of July, 2009, by and between MYRON B. THOMPSON ACADEMY by its Principal, hereinafter referred to as "MBTA," and **Dec Island's Choice, LLC**, whose residence address is [REDACTED], hereinafter referred to as "Temporary Contract Employee."

**WITNESSETH**

WHEREAS, the MBTA desires to engage the Temporary Contract Employee to render certain technical and/or professional services described herein (or on an attached exhibit if necessary):

**The Contract Employee will oversee all facilities operations, fire maintenance and inspections, parking, and general maintenance issues throughout the year.**

Contract for the vice-principal's "administrative differential" was made with the vice-principal's catering business called Dee Island's Choice, LLC.



**Finding 2** (cont'd)

**VP signed contract for VP's company**

**TEMPORARY CONTRACT EMPLOYEE**

By *Lee Yeamane*  
*Legal Signature of Employee*

*6/15/09*  
*Date*

\_\_\_\_\_  
*Type Legal Name of Employee*

**Myron B. Thompson Academy (MBTA)**

I certify that these services are special or unique or essential to the public interest and that, because of circumstances surrounding their fulfillment, personnel to perform the services cannot be obtained through normal civil service recruitment procedures and that this contract period does not exceed one year. Pursuant to Section 76-12 (2), Hawaii Revised Statutes, the services are exempt from the State civil service. This contract complies with Chapters 84 and 103D of the Hawaii Revised Statutes.

Reviewed and recommended:  
By: *Diana Oshiro*  
*Signature of Requestor (Principal)*

*6/15/09*  
*Date*

*Diana Oshiro, Principal*  
*Type Name of Requestor and Title*

Approved:  
By: *[Signature]*  
*Chairperson of MBTA Board*

*6/14/09*  
*Date*

**Finding 2** (cont'd)

**Improper financial management practices border on fraud and abuse**

- Retired VP authorized \$17,500 purchase order
- Purchase order approved with school director's rubber stamp signature
- Retired VP signed \$17,500 check

**Finding 2** (cont'd)

**Retired VP improperly authorized purchase order**

**Myron B. Thompson Academy**  
**Public Charter School**  
629 Pohukaina Street Suite 3  
Honolulu, HI 96813  
www.ethompson.org  
Phone # 808-441-8011 Fax # 808-586-3640

VP Yamane retired on 12/31/2009

**Date:** 7/1/2010

**Purchase Order**  
**PO O1267680**

Vendor		SHIP & BILL TO:		
Higgins, Gwen A.		Myron B. Thompson Academy 629 Pohukaina Street Suite 3 Honolulu, HI 96813		

Item	Description	Qty	Rate	Amount
5135	Contract: 07/01/2010 to 12/31/2010 for \$17,500.00. Payment is made in lump sum. Contract employee will provide school budget management of all finances in MBTA and those that transition into newly created non-profit entity, Ho'ilina Inc.		17,500.00	17,500.00

**Finding 2** (cont'd)

**Rubber stamp used to authorize purchase order**

Rubber stamp used for the principal's signature

--	--	--	--	--

**INSTRUCTIONS TO VENDOR - READ CAREFULLY**

1. P.O. number must appear on all invoices, packing slips, packages & cartons.
2. Submit separate bill to the above school for each purchase order at time of delivery with information as to quantity, description, unit price and cost.
3. This school will not assume responsibility for purchases without properly signed purchase orders.

<b>Total</b>	\$17,500.00
--------------	-------------

PO Authorized by: *Diana Oshiro*  
Diana Oshiro Principal.

*Dee Yamane*  
Purchaser.

Retired VP Yamane improperly approves purchase order

Finding 2 (cont'd)

Retired VP improperly signed check

MYRON B. THOMPSON ACADEMY  
629 POHUKAINA ST. STE. 3  
HONOLULU, HAWAII 96813

*vmw*

BANK OF HAWAII  
VP Yamane retired  
12/31/2009

8375

7/1/2010

PAY TO THE ORDER OF Gwendolyn Higgins \$ \*\*17,500.00

Seventeen Thousand Five Hundred and 00/100..... DOLLARS

Higgins, Gwen A.

Retired VP Yamane improperly signs check

*Gary A. Sakuma*  
Valid for 90 days

*Dee Yamane*

MEMO Contract: 07/01/2010 to 12/31/2010

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**Finding 2** (cont'd)

**Thompson Academy transactions with related parties**

- School violated its own procurement policy
- 4 school employees related to school's director
- 3 school employees related to VP

**Finding 2** (cont'd)

**Hawai'i Technology Academy's head of school, who spends millions of dollars in state money, is not a public employee**

- Employed by for-profit company, K-12
- Not subject to the state ethics law
- Not subject to LSB authority
- Head of school controls \$3m in general funds



**Finding 2** (cont'd)

**Kamaile Academy successfully negotiated supplemental agreements**

- Other school boards failed to enter into supplemental agreements

**Finding 2** (cont'd)

**Stipends and additional wages paid with no supplemental agreements**

- 6 Hakipu'u employees - \$11,000/yr total
- West Hawai'i Explorations Academy:
  - 1 teacher paid for meeting HQT requirements
  - 11 teachers paid for incentives linked to portfolios

**Finding 2** (cont'd)

**Some schools assigned employees to wrong bargaining units or did not assign employees to any bargaining unit**

- West Hawai'i Explorations Academy – co-director belongs to HSTA; performs educational officer duties (HGEA/BU6)
- Hakipu'u - 3 school leaders not assigned to BU

**Finding 2** (cont'd)

**Absent oversight, charter schools spent public moneys in an unsound manner**

- Spending on “student incentives” offers lesson in oversight

**Finding 2** (cont'd)

**Kamaile Academy paid over \$18,000 for student incentives with public funds**

<b>Student Incentives</b>	<b>Description</b>	<b>Cost</b>
Wet 'N Wild Water Amusement Park	School-wide field trip for 951 students and chaperones	\$15,660
Ice Palace	Field trip for 230 students	\$1,782
Chuck E. Cheese	Field trip and lunch for 65 students	\$341
Six bicycles	Used as student incentives	\$484
	<b>TOTAL</b>	<b>\$18,267</b>

**Finding 2** (cont'd)

**West Hawai'i Explorations Academy paid over \$5,000 for excursions with public funds**

<b>Location</b>	<b>Excursion</b>	<b>Cost</b>
Sheraton Keauhou Bay Resort and Spa	School prom dinners for 80 students	\$3,997
Kilauea Military Camp, Hawai'i Volcanoes National Park	Meals and lodging for 2 school trips	\$1,120
	<b>TOTAL</b>	<b>\$5,117</b>

**Finding 2** (cont'd)

**Poor fiscal management practices are widespread**

- **5 of 10 schools** - weak procurement controls
- **6 of 10 schools** - deficient approval documentation
- **5 of 10 schools** – no approved bank reconciliations
- **3 of 10 schools** - segregation of duties issues



**Conclusion**

Unless the panel and office take active roles in a robust accountability system, student outcomes will remain unproven and the financial viability of individual schools and the charter school system itself will be unknown.

## Recommendations

### **Panel should:**

- Develop guidelines for performance contracts
- Incorporate academic performance standards
- Develop a sound methodology for measuring individual student growth

**Recommendations** (cont'd)

**Panel should:** (cont'd)

- Collect, analyze and verify data annually
- Report annually to the Board of Education
- Require assistance by the Charter School Administrative Office

**Recommendations** (cont'd)

**Local school boards should:**

- Update performance contracts
- Ensure accuracy of data reported to panel
- Adhere to collective bargaining obligations
- Assign employees to appropriate BU

**Recommendations** (cont'd)

**Local school boards should:** (cont'd)

- Negotiate supplemental agreements with public unions
- Establish effective controls
- Incorporate ethical public and state ethics code provisions

**Recommendations** (cont'd)

**Local school boards should:** (cont'd)

- Review and adopt internal procurement policy and procedures
- Ensure procurement reports are presented to each board member