
A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 302D, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "§302D-A Annual audit. Each charter school shall annually
5 complete an independent financial audit that complies with the
6 requirements of its authorizer and the department.

7 §302D-B Criminal history record checks. (a) The
8 commission shall develop procedures for obtaining verifiable
9 information regarding the criminal history of persons who are
10 employed or seeking employment in any position, including
11 teacher trainees, that places them in close proximity to
12 children. These procedures shall include criminal history
13 record checks in accordance with section 846-2.7. Information
14 obtained pursuant to this subsection shall be used exclusively
15 by the employer or prospective employer for the purpose of
16 determining whether a person is suitable for working in close
17 proximity to children. All such decisions shall be subject to
18 applicable federal laws and regulations.



1 (b) The employer or prospective employer may:
2 (1) Refuse to allow or continue to allow teacher training;
3 (2) Terminate the employment of any employee; or
4 (3) Deny employment to an applicant,
5 if the person has been convicted of a crime, and if the employer
6 or prospective employer finds by reason of the nature and
7 circumstances of the crime, that the person poses a risk to the
8 health, safety, or well-being of children. Refusal,
9 termination, or denial may occur only after appropriate
10 investigation and notification to the employee or applicant of
11 the results and planned action and after the employee or
12 applicant is given an opportunity to meet and rebut the
13 findings. Nothing in this subsection shall abrogate any
14 applicable rights under chapter 76 or 89.

15 (c) Notwithstanding any other law to the contrary, for
16 purposes of this section, the commission shall be exempt from
17 section 831-3.1 and shall not be required to conduct
18 investigations, notifications, or hearings in accordance with
19 chapter 91.

20 **§302D-C Enrollment.** (a) A public charter school shall
21 not discriminate against any student or limit admission based on
22 race, color, ethnicity, national origin, religion, gender,



1 sexual orientation, socioeconomic status, disability, level of
2 proficiency in the English language, need for special education
3 services, or academic or athletic ability.

4 (b) A start-up charter school:

5 (1) Shall be open to any student residing in the State;

6 (2) Shall enroll all students who submit an application,
7 unless the number of students who submit an
8 application exceeds the capacity of a program, class,
9 grade level, or building;

10 (3) Shall select students through a public lottery if, as
11 described in paragraph (2), capacity is insufficient
12 to enroll all students who have submitted a timely
13 application;

14 (4) May give an enrollment preference to students within a
15 given age group or grade level and may be organized
16 around a special emphasis, theme, or concept as stated
17 in the charter contract;

18 (5) May give an enrollment preference to students enrolled
19 in the charter school during the previous school year,
20 to siblings of students already enrolled at the
21 charter school, and to children of employees of the
22 charter school; and



1 (6) May give any other enrollment preference permitted by
2 the charter school's authorizer, on an individual
3 charter school basis, if consistent with state and
4 federal law;
5 provided that nothing in this subsection shall preclude the
6 formation of a start-up charter school whose mission is focused
7 on serving students with disabilities, who are of the same
8 gender, who pose such severe disciplinary problems that they
9 warrant a specific educational program, or who are at a risk of
10 academic failure.

11 (c) A conversion charter school shall:

12 (1) Enroll any student who resides within the school's
13 former geographic service area pursuant to section
14 302A-1143, for the grades that were in place when the
15 public school converted to a charter school; provided
16 that the department may consult with a conversion
17 charter school every three years to determine whether
18 realignment of the charter school's service area is
19 appropriate given population shifts and the
20 department's overall service area reviews;



- 1 (2) Follow the department's procedures regarding
- 2 enrollment, including but not limited to geographic
- 3 exceptions and enrollment preferences; and
- 4 (3) Be subject to subsection (b) for grades that were not
- 5 in place when the school converted to a public charter
- 6 school."

7 SECTION 2. Section 84-3, Hawaii Revised Statutes, is
 8 amended by amending the definition of "employee" to read as
 9 follows:

10 "Employee" means any nominated, appointed, or elected
 11 officer or employee of the State, including members of boards,
 12 commissions, and committees[~~, and~~]; employees under contract to
 13 the State or of the constitutional convention[~~, but excluding~~];
 14 and any person under an employment contract to act as the chief
 15 executive officer, chief administrative officer, executive
 16 director, or designated head of a charter school. "Employee"
 17 excludes legislators, delegates to the constitutional
 18 convention, justices, and judges."

19 SECTION 3. Section 302A-1132, Hawaii Revised Statutes, is
 20 amended by amending subsection (a) to read as follows:

21 "(a) Unless excluded from school or excepted from
 22 attendance, all children who will have arrived at the age of at



1 least six years, and who will not have arrived at the age of
2 eighteen years, by January 1 of any school year, shall attend
3 either a public school, public charter school, or private school
4 for, and during, the school year, and any parent, guardian, or
5 other person having the responsibility for, or care of, a child
6 whose attendance at school is obligatory shall send the child to
7 either a public or private school. Attendance at a public or
8 private school shall not be compulsory in the following cases:

- 9 (1) Where the child is physically or mentally unable to
10 attend school (deafness and blindness excepted), of
11 which fact the certificate of a duly licensed
12 physician shall be sufficient evidence;
- 13 (2) Where the child, who has reached the fifteenth
14 anniversary of birth, is suitably employed and has
15 been excused from school attendance by the
16 superintendent or the superintendent's authorized
17 representative, or by a family court judge;
- 18 (3) Where, upon investigation by the family court, it has
19 been shown that for any other reason the child may
20 properly remain away from school;
- 21 (4) Where the child has graduated from high school;



1 (5) Where the child is enrolled in an appropriate
2 alternative educational program as approved by the
3 superintendent or the superintendent's authorized
4 representative in accordance with the plans and
5 policies of the department, or notification of intent
6 to home school has been submitted to the principal of
7 the public school that the child would otherwise be
8 required to attend in accordance with department rules
9 adopted to achieve this result; or

10 (6) Where:

11 (A) The child has attained the age of sixteen years;

12 (B) The principal has determined that:

13 (i) The child has engaged in behavior which is
14 disruptive to other students, teachers, or
15 staff; or

16 (ii) The child's non-attendance is chronic and
17 has become a significant factor that hinders
18 the child's learning; and

19 (C) The principal of the child's school, and the
20 child's teacher or counselor, in consultation
21 with the child and the child's parent, guardian,
22 or other adult having legal responsibility for or



1 care of the child, develops an alternative
 2 educational plan for the child. The alternative
 3 educational plan shall include a process that
 4 shall permit the child to resume school.

5 The principal of the child's school shall file the
 6 plan made pursuant to subparagraph (C) with the
 7 child's school record. If the adult having legal
 8 responsibility for or care of the child disagrees with
 9 the plan, then the adult shall be responsible for
 10 obtaining appropriate educational services for the
 11 child."

12 SECTION 4. Section 302D-1, Hawaii Revised Statutes, is
 13 amended as follows:

14 1. By amending the definitions of "authorizer" and
 15 "charter school" or "public charter school" and "organizational
 16 viability" to read:

17 "Authorizer" means an entity established under this
 18 chapter with chartering authority to review charter
 19 applications, decide whether to approve or [~~reject~~] deny charter
 20 applications, enter into charter contracts with applicants,
 21 oversee public charter schools, and decide whether to authorize,
 22 [~~reauthorize,~~] renew, deny renewal of, or [~~reject~~] revoke



1 charter contracts. The term may include the commission when
2 appropriate.

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

12 "Organizational viability" means that a charter school:

- 13 (1) Has been duly constituted and operates in accordance
14 with its charter;
- 15 (2) Has a governing board established in accordance with
16 law and the charter school's charter;
- 17 (3) Employs sufficient faculty and staff to provide the
18 necessary educational program and support services to
19 operate the facility in accordance with its charter;
- 20 (4) Maintains accurate and comprehensive records regarding
21 students and employees as determined by its
22 authorizer;



- 1 (5) Meets appropriate standards of student achievement as
- 2 defined by the board pursuant to its duties under
- 3 article X, section 3, of the constitution of the State
- 4 of Hawaii;
- 5 (6) Cooperates with board and authorizer requirements in
- 6 conducting its functions;
- 7 (7) Complies with applicable federal, state, and county
- 8 laws and requirements;
- 9 (8) In accordance with authorizer guidelines and
- 10 procedures, is financially sound and fiscally
- 11 responsible in its use of public funds, maintains
- 12 accurate and comprehensive financial records, operates
- 13 in accordance with generally accepted accounting
- 14 practices, and maintains a sound financial plan;
- 15 (9) Operates within the scope of its charter contract and
- 16 fulfills obligations and commitments of its charter;
- 17 (10) Complies with all health and safety laws and
- 18 requirements;
- 19 (11) Complies with all authorizer directives, policies, and
- 20 procedures; and
- 21 (12) Complies with all board policies deemed applicable to
- 22 charter schools by the board."



1 2. By deleting the definition of "executive director".

2 ["~~Executive director~~ means the executive director of the
3 ~~state public charter school commission.~~"]

4 SECTION 5. Section 302D-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~§302D-3~~ **State public charter school commission;**

7 **establishment; appointment.** (a) There is established the state
8 public charter school commission with statewide chartering
9 jurisdiction and authority. The commission shall be placed
10 within the department for administrative purposes only.

11 Notwithstanding section 302D-25 and any law to the contrary, the
12 commission shall be subject to chapter 92.

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

15 (c) The commission shall consist of nine members to be
16 appointed by the board. The board shall appoint members who
17 will be tasked with authorizing public charter schools that
18 serve the unique and diverse needs of public school students.
19 The chair of the commission shall be designated by the members
20 of the commission for each school year beginning July 1, and
21 whenever there is a vacancy. The board shall consider the
22 combination of abilities, breadth of experiences, and



1 characteristics of the commission, including but not limited to
2 reflecting the diversity of the student population, geographical
3 representation, and a broad representation of education-related
4 stakeholders.

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

9 (1) Commitment to education. Each nominee's record should
10 demonstrate a deep and abiding interest in education,
11 and a dedication to the social, academic, and
12 character development of young people through the
13 administration of a high performing charter school
14 system;

15 (2) Record of integrity, civic virtue, and high ethical
16 standards. Each nominee shall demonstrate integrity,
17 civic virtue, and high ethical standards and be
18 willing to hold fellow commission members to the same;

19 (3) Availability for constructive engagement. Each
20 nominee shall commit to being a conscientious and
21 attentive commission member; and



1 (4) Knowledge of best practices. Each nominee shall have
2 an understanding of best practices in charter school
3 educational governance or shall be willing to be
4 trained in such.

5 (e) Each nominee to the commission shall ideally meet the
6 following recommended qualifications:

7 (1) Experience governing complex organizations. Each
8 nominee should possess experience with complex
9 organizations, including but not limited to
10 performance contract management, and a proven ability
11 to function productively within them; and

12 (2) Collaborative leadership ability. Each nominee should
13 have substantial leadership experience that ideally
14 illustrates the nominee's ability to function among
15 diverse colleagues as an effective team member, with
16 the ability to articulate, understand, and help shape
17 consensus surrounding commission policies.

18 (f) Five members of the commission shall constitute a
19 quorum to conduct business and a concurrence of at least five
20 members shall be necessary to make any action of the commission
21 valid.



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

- 5 (1) Three members, including the chairperson, to serve
6 three-year terms;
- 7 (2) Three members to serve two-year terms; and
- 8 (3) Three members to serve one-year terms.

9 (h) Notwithstanding the terms of the members, the board
10 may fill vacancies in the commission at any time when a vacancy
11 occurs due to resignation, non-participation, the request of a
12 majority of the commission members, or termination by the board
13 for cause.

14 (i) Commission members shall receive no compensation.
15 When commission duties require that a commission member take
16 leave of the member's duties as a state employee, the
17 appropriate state department shall allow the commission member
18 to be placed on administrative leave with pay and shall provide
19 substitutes, when necessary, to fulfill that member's
20 departmental duties. Members shall be reimbursed for necessary
21 travel expenses incurred in the conduct of official commission
22 business.



1 (j) ~~[The commission shall establish operating procedures~~
2 ~~that shall include conflict of interest procedures for any~~
3 ~~member whose school of employment or governing board is before~~
4 ~~the commission.] Commission members shall disclose to the~~
5 commission a list of all charter schools in which the member is
6 an employee, governing board member, vendor, contractor, agent,
7 or representative. Any member having such interest in any
8 matter before the commission shall be disqualified from voting
9 on or participating in the discussion of such matter.

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

13 (l) The commission shall have the power to hire staff
14 without regard to chapters 76 and 89."

15 SECTION 6. Section 302D-5, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) An authorizer shall:

18 (1) Act as the point of contact between the department and
19 a public charter school it authorizes and be
20 responsible for the administration of all applicable
21 state and federal laws;



- 1 (2) Be responsible for and ensure compliance of a charter
- 2 school it authorizes with all applicable state and
- 3 federal laws, including reporting requirements;
- 4 (3) Be responsible for the receipt of applicable federal
- 5 funds from the department and the distribution of
- 6 funds to the public charter school it authorizes; and
- 7 (4) Be responsible for the receipt of per-pupil funding
- 8 from the department of budget and finance and
- 9 distribution of the funding to the public charter
- 10 school it authorizes[-]; provided that funds
- 11 distributed to charter schools shall be considered
- 12 expended."

13 SECTION 7. Section 302D-6, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 " ~~[+]§302D-6[+]~~ **Principles and standards for charter**
 16 **authorizing.** All authorizers shall be required to ~~[develop and~~
 17 ~~maintain chartering policies and practices consistent with]~~
 18 follow nationally recognized principles and standards for
 19 quality charter authorizing in all major areas of authorizing
 20 responsibility including:

- 21 (1) Organizational capacity and infrastructure;
- 22 (2) Soliciting and evaluating charter applications;



- 1 (3) Performance contracting;
- 2 (4) Ongoing public charter school oversight and
- 3 evaluation; and
- 4 (5) Charter and charter contract renewal decision-making.
- 5 Authorizers shall carry out all their duties under this
- 6 chapter in a manner consistent with nationally recognized
- 7 principles and standards and with the spirit and intent of this
- 8 chapter. Evidence of material or persistent failure to do so
- 9 shall constitute grounds for losing charter authorizing powers."

10 SECTION 8. Section 302D-8, Hawaii Revised Statutes, is

11 amended to read as follows:

12 "[+]§302D-8[+] **Conflict of interests.** No employee,

13 trustee, agent, or representative of an authorizer may

14 simultaneously serve as an employee, trustee, agent,

15 representative, vendor, or contractor of a public charter school

16 authorized by that authorizer[-], except as provided under

17 section 302D-3(j) relating to membership on the commission."

18 SECTION 9. Section 302D-12, Hawaii Revised Statutes, is

19 amended as follows:

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

21 "(a) No more than [~~thirty per cent~~] one-third of the

22 voting members of a governing board shall be employees of a



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

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

17 2. By amending subsection (d) to read:

18 "(d) Governing boards and charter schools shall be exempt
 19 from chapter 103D, but shall develop internal policies and
 20 procedures for the procurement of goods, services, and
 21 construction, consistent with the goals of public accountability
 22 and public procurement practices. Governing boards and charter

1 schools are encouraged to use the provisions of chapter 103D
2 wherever possible; provided that the use of one or more
3 provisions of chapter 103D shall not constitute a waiver of the
4 exemption from chapter 103D and shall not subject the charter
5 school to any other provision of chapter 103D."

6 3. By amending subsection (h) to read:

7 "(h) For purposes of this section[, ~~"employees" shall~~]:

8 "Employees" shall include but not be limited to the chief
9 executive officer, chief administrative officer, executive
10 director, or otherwise designated head of a charter school[-]
11 and shall include any person under an employment contract to act
12 as the chief executive officer, chief administrative officer,
13 executive director, or designated head of a charter school.

14 "Relative" means a spouse, fiancé, fiancée, any relative
15 within four degrees of consanguinity or the spouse, fiancé, or
16 fiancée of such a relative."

17 SECTION 10. Section 302D-13, Hawaii Revised Statutes, is
18 amended by amending subsections (c) and (d) to read as follows:

19 "(c) The start-up charter school charter application
20 process and schedule shall be determined by the authorizer, and
21 shall provide for and include, at a minimum, the following
22 elements:



- 1 (1) The submission of a letter of intent to operate a
2 start-up charter school;
- 3 (2) The ~~[timely transmittal]~~ availability of the charter
4 application form and completion guidelines ~~[to]~~ on the
5 ~~[governing board,]~~ authorizer's website;
- 6 (3) The timely submission of a completed charter
7 application to the authorizer;
- 8 (4) The timely review of the charter application by the
9 authorizer for completeness, and notification by the
10 authorizer to the governing board that the charter
11 application is complete;
- 12 (5) Upon receipt of a completed charter application, the
13 ~~[convening of the commission, if applicable, by the~~
14 ~~commission chairperson to begin]~~ review and evaluation
15 of the charter application~~[,]~~ by qualified persons;
- 16 (6) Following the ~~[submission]~~ review and evaluation of a
17 charter application, ~~[issuance of a charter or]~~
18 approval or denial of the charter application by the
19 authorizer ~~[or if submitted to the commission, by~~
20 ~~majority vote]~~;
- 21 (7) A provision for a final date by which a decision of
22 whether to approve or deny a charter application must



1 be made[+] by the authorizer, upon receipt of a
2 complete charter application; and
3 (8) A provision that no start-up charter school may begin
4 operation before obtaining authorizer approval of its
5 charter application and charter contract[+] and
6 fulfilling pre-opening requirements that may be
7 imposed by the authorizer.

8 (d) A charter application to become a start-up charter
9 school shall meet the requirements of this subsection and
10 section 302D-25. The charter application shall, at a minimum,
11 include the following:

12 (1) A description of employee rights and management issues
13 and a framework for addressing those issues that
14 protects the rights of employees;

15 (2) A plan for identifying, recruiting, and retaining
16 highly qualified instructional faculty[+], as defined
17 by the department;

18 (3) A plan for identifying, recruiting, and selecting
19 students that is not exclusive, elitist, or
20 segregationist[+], and complies with this chapter;



- 1 (4) The curriculum and instructional framework to be used
2 to achieve student outcomes, including an assessment
3 plan;
- 4 (5) A plan for the assessment of student, administrative
5 support, and teaching personnel performance that:
- 6 (A) Recognizes the interests of the general public;
7 (B) Incorporates or exceeds the educational content
8 and performance standards developed by the
9 department for the public school system;
- 10 (C) Includes a system of faculty and staff
11 accountability that holds faculty and staff
12 individually and collectively accountable for
13 their performance, and that is at least
14 equivalent to the average system of
15 accountability in public schools throughout the
16 State; and
- 17 (D) Provides for program audits and annual financial
18 audits;
- 19 (6) A governance structure for the charter school that
20 incorporates a conflict of interest policy and a plan
21 for periodic training to carry out the duties of
22 governing board members;



1 (7) A description of the constitution of the governing
2 board, terms of governing board members, and the
3 process by which governing board members were
4 selected;

5 (8) A financial plan based on the most recent fiscal
6 year's per-pupil charter school allocation that
7 demonstrates the ability to meet the financial
8 obligations of one-time, start-up costs and ongoing
9 costs such as monthly payrolls, faculty recruitment,
10 professional development, and facilities costs; and

11 (9) A facilities plan."

12 SECTION 11. Section 302D-14, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~§~~§302D-14[~~§~~] **Conversion charter schools; establishment.**

15 (a) A conversion charter school may be established pursuant to
16 this section.

17 (b) Any department school, school community council, group
18 of teachers, group of teachers and administrators, or nonprofit
19 organization may submit a letter of intent to an authorizer to
20 convert a department school to a charter school, establish a
21 governing board as its governing body, and develop a charter
22 application pursuant to subsection (d).



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

4 (1) The submission of a letter of intent to convert to a
5 charter school;

6 (2) The ~~[timely transmittal]~~ availability of the charter
7 application form and completion guidelines ~~[to]~~ on the
8 ~~[governing board,]~~ authorizer's website;

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

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



- 1 (B) The balance of stakeholders represented in the
2 vote and the [~~bread~~] extent of support received
3 in support of the conversion shall be a key
4 factor, along with the applicant's proposed
5 plans, in an authorizer's decision to award a
6 charter; and
- 7 (C) A breakdown of the number of administrative,
8 support, and teacher personnel, and parents that
9 constitute the existing department school and the
10 number that actually participated in the vote
11 shall be provided to the authorizer;
- 12 (4) The timely review of the charter application by the
13 authorizer for completeness, and notification by the
14 authorizer to the governing board that the charter
15 application is complete;
- 16 (5) Upon receipt of a completed charter application, the
17 [~~convening of the commission, if applicable, by the~~
18 ~~commission chairperson to begin~~] review and evaluation
19 of the charter application[+] by qualified persons;
- 20 (6) Following the [~~submission~~] review and evaluation of a
21 charter application, [~~issuance of a charter~~] approval



1 or denial of the charter application by the authorizer
2 ~~[or if submitted to the commission, by majority vote];~~

3 (7) A provision for a final date by which a decision of
4 whether to approve or deny a charter application must
5 be made by the authorizer, upon receipt of a complete
6 charter application; and

7 (8) A provision that no conversion charter school may
8 begin operation before obtaining authorizer approval
9 of its charter and charter contract~~[+]~~ and fulfilling
10 pre-opening requirements that may be imposed by the
11 authorizer.

12 (d) A charter application to become a conversion charter
13 school shall meet the requirements of this subsection and
14 section 302D-25. The charter application shall include, at a
15 minimum, the following:

16 (1) A description of employee rights and management issues
17 and a framework for addressing those issues that
18 protects the rights of employees;

19 (2) A plan for identifying, recruiting, and retaining
20 highly qualified instructional faculty~~[+]~~, as defined
21 by the department;



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



1 (6) A governance structure for the charter school that
2 incorporates a conflict of interest policy and a plan
3 for periodic training to carry out the duties of
4 governing board members;

5 (7). A description of the constitution of the governing
6 board, terms of governing board members, and the
7 process by which governing board members were
8 selected;

9 (8) A financial plan based on the most recent fiscal
10 year's per-pupil charter school allocation that
11 demonstrates the ability to meet the financial
12 obligations of one-time, start-up costs and ongoing
13 costs such as monthly payrolls, faculty recruitment,
14 professional development, and facilities costs; and

15 (9) A facilities plan.

16 (e) A nonprofit organization may submit a letter of intent
17 to an authorizer to convert a department school to a conversion
18 charter school, operate and manage the school, establish a
19 governing board as its governing body, and develop a charter
20 application pursuant to subsection (d); provided that:

21 (1) As the governing body of the conversion charter
22 school, the governing board shall be the board of



1 directors of the nonprofit organization and shall not
2 be selected pursuant to section 302D-12. The
3 nonprofit organization may also appoint advisory
4 groups of community representatives for each school
5 managed by the nonprofit organization; provided that
6 these groups shall not have governing authority over
7 the school and shall serve only in an advisory
8 capacity to the nonprofit organization;

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

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



- 1 (B) The balance of stakeholders represented in the
2 vote and the [~~bread~~] extent of support received
3 in support of the conversion shall be a key
4 factor, along with the applicant's proposed
5 plans, in an authorizer's decision to award a
6 charter; and
- 7 (C) A breakdown of the number of administrative,
8 support, and teacher personnel, and parents that
9 constitute the existing department school and the
10 number that actually participated in the vote
11 shall be provided to the authorizer;
- 12 (3) The board of directors of the nonprofit organization,
13 as the governing body for the conversion charter
14 school that it operates and manages, shall have the
15 same protections that are afforded to the board in its
16 role as the conversion charter school governing body;
- 17 (4) Any conversion charter school that is managed and
18 operated by a nonprofit organization shall be eligible
19 for the same federal and state funding as other public
20 schools; provided that [~~the nonprofit organization~~
21 ~~makes a minimum annual~~] nothing in this section shall
22 prohibit a nonprofit organization from making a



1 contribution [~~of \$1 per pupil~~] toward the operation of
2 a conversion charter school [~~for every \$4 per pupil~~
3 ~~allocated by the department of budget and finance for~~
4 ~~the operation of the conversion charter school,~~
5 ~~provided further that in no event shall the nonprofit~~
6 ~~organization be required to contribute more than the~~
7 ~~total required contribution per pupil per year. As~~
8 ~~used in this paragraph, "total required contribution"~~
9 means:

- 10 ~~(A) \$1,650 for school years 2012-2013 through 2015-~~
11 ~~2016; and~~
12 ~~(B) \$1,815 for school years 2016-2017 through 2020-~~
13 ~~2021]; and~~

14 (5) If, at any time, the board of directors of the
15 nonprofit organization governing the conversion
16 charter school votes to discontinue its relationship
17 with the charter school, the charter school may submit
18 a revised charter application to the authorizer to
19 continue as a conversion school without the
20 participation of the nonprofit organization.

21 (f) Any nonprofit organization that seeks to manage or
22 operate a conversion charter school as provided in subsection



1 (e) shall comply with the following at the time of charter
2 application:

3 (1) Have bylaws or policies that describe the manner in
4 which business is conducted and policies that relate
5 to the management of potential conflict of interest
6 situations;

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

11 (3) Comply with all applicable federal, state, and county
12 laws, including licensure or accreditation, as
13 applicable; and

14 (4) Comply with any other requirements prescribed by the
15 department to ensure adherence with applicable
16 federal, state, and county laws, and the purposes of
17 this chapter.

18 (g) Any public school or schools, programs, or sections of
19 existing public school populations that are part of a separate
20 Hawaiian language immersion program using existing public school
21 facilities may submit a letter of intent to an authorizer to
22 form a conversion charter school pursuant to this section.



1 (h) In reviewing a charter application for a charter under
2 this section, an authorizer shall take into consideration the
3 constitution of the applicant's governing board, terms of
4 governing board members, and the process by which governing
5 board members were selected.

6 (i) In the event of a conflict between the provisions in
7 this section and other provisions in this chapter, this section
8 shall control.

9 ~~[(j) Any applicant whose charter application is denied by~~
10 ~~the authorizer shall not be allowed to amend or resubmit the~~
11 ~~charter application to the authorizer during a given cycle, as~~
12 ~~defined by the authorizer, except as provided in subsection~~
13 ~~(e) (5); provided that an applicant shall have the right to~~
14 ~~appeal the authorizer's denial of its charter application~~
15 ~~pursuant to section 302D-15.~~

16 ~~(k)]~~ (j) In reviewing charter applications for a charter
17 under this section, an authorizer shall develop a schedule to
18 approve or deny a charter application by the end of the calendar
19 year for purposes of meeting any deadlines to request funding
20 from the legislature."

21 SECTION 12. Section 302D-15, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~[+]§302D-15[+]~~ Appeals; charter applications,
2 ~~[reauthorizations,]~~ renewals, or revocations. (a) The board
3 shall have the power to decide appeals of decisions by an
4 authorizer to deny the approval of a charter application, deny
5 ~~[reauthorization]~~ renewal of a charter ~~[school,]~~ contract, or
6 revoke a charter school's charter~~[-]~~ contract. An appeal shall
7 be filed with the board within twenty-one calendar days of the
8 receipt of the notification of denial or revocation. Only a
9 party whose charter application has been denied, whose
10 ~~[reauthorization]~~ charter contract renewal has been denied, or
11 whose charter contract has been revoked may initiate an appeal
12 under this section for cause. The board shall review an appeal
13 and issue a final decision within sixty calendar days of the
14 filing of the appeal. ~~[The board may adopt applicable rules and~~
15 ~~procedures pursuant to chapter 91 for implementing the appeals~~
16 ~~process.]~~
17 (b) The board shall serve as the final arbitrator of
18 appeals authorized by subsection (a).
19 (c) A party shall not be entitled to a hearing before the
20 board under this section until it has exhausted all available
21 administrative remedies.



1 (d) The board shall adopt applicable rules and procedures
2 pursuant to chapter 91 to implement this section."

3 SECTION 13. Section 302D-16, Hawaii Revised Statutes, is
4 amended as follows:

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

6 "(a) The performance provisions within the charter
7 contract shall be based on a performance framework that clearly
8 sets forth the academic and operational performance indicators,
9 measures, and metrics that will guide the authorizer's
10 evaluations of each public charter school. The performance
11 framework, as established by the authorizer, shall include
12 indicators, measures, and metrics for, at a minimum:

- 13 (1) Student academic proficiency;
- 14 (2) Student academic growth;
- 15 (3) Achievement gaps in proficiency and growth between
16 major student subgroups;
- 17 (4) Attendance;
- 18 (5) [~~Recurrent enrollment from year to year;~~] Enrollment
19 variance;
- 20 (6) Postsecondary readiness, as applicable for high
21 schools;
- 22 (7) Financial performance and sustainability;



1 (8) Performance and stewardship, including compliance with
2 all applicable laws, rules, and terms of the charter
3 contract; and

4 (9) Organizational viability."

5 2. By amending subsection (d) to read:

6 "(d) The performance framework shall require the
7 disaggregation of all student performance data by major student
8 subgroups, [~~including gender, race, poverty status, special~~
9 ~~education status, English as a second language status, and~~
10 ~~gifted and talented status.~~] as determined by the board."

11 SECTION 14. Section 302D-18, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsections (b) and (c) to read:

14 "(b) [~~No later than September 1, the~~] The authorizer shall
15 issue a charter school performance report and charter contract
16 renewal application guidance to any charter school whose charter
17 contract will expire the following year. The performance report
18 shall summarize the charter school's performance record to date,
19 based on the data required by this chapter and the charter
20 contract, and shall provide notice of any weaknesses or concerns
21 perceived by the authorizer concerning the charter school that
22 may jeopardize its position in seeking renewal [~~if not timely~~



1 ~~rectified. The charter school shall have thirty days to respond~~
2 ~~to the performance report and submit any corrections or~~
3 ~~clarifications for the report].~~

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

6 (1) Submit any corrections or clarifications to the
7 performance report;

8 ~~[(1)]~~ (2) Present additional evidence, beyond the data
9 contained in the performance report, supporting its
10 case for charter renewal;

11 ~~[(2)]~~ (3) Describe improvements undertaken or planned for
12 the school; and

13 ~~[(3)]~~ (4) Detail the charter school's plans for the next
14 charter term."

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

16 "(e) No later than ~~March 1,~~ thirty days after the
17 issuance of the performance report, the governing board of a
18 charter school seeking renewal shall submit a renewal
19 application to the authorizer pursuant to the renewal guidance
20 issued by the authorizer. The authorizer shall decide whether
21 or not to renew the charter no later than forty-five days after
22 the filing of the renewal application."



1 3. By amending subsections (h), (i), and (j) to read:

2 "(h) An authorizer shall develop revocation and non-
3 renewal processes that:

4 (1) Provide the charter contract holders with a timely
5 notification of the prospect of revocation or non-
6 renewal and the reasons for such possible closure;

7 (2) Allow the charter contract holders a reasonable amount
8 of time in which to prepare a response;

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

14 (4) Allow charter contract holders access to
15 representation by counsel, subject to section 28-8.3,
16 and to call witnesses on their behalf;

17 (5) Permit the recording of proceedings described in
18 paragraph (3); and

19 (6) After a reasonable period for deliberation, require a
20 final determination to be made and conveyed in writing
21 to the charter contract holders.



1 (i) If an authorizer revokes or does not renew a
2 charter[~~7~~] contract, the authorizer shall clearly state in
3 writing the reasons for the revocation or nonrenewal.

4 (j) Within fifteen days of taking action to renew, not
5 renew, or revoke a charter[~~7~~] contract, the authorizer shall
6 report to the board the action taken, and shall simultaneously
7 provide a copy of the report to the charter school. The report
8 shall set forth the action taken and reasons for the decision
9 and assurances as to compliance with all the requirements set
10 forth in this chapter."

11 SECTION 15. Section 302D-21, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~+~~]**\$302D-21**[~~+~~] **Annual board report.** No later than twenty
14 days prior to the convening of each regular session of the
15 legislature, the board shall issue to the governor, the
16 legislature, and the public, an annual report on the State's
17 public charter schools, drawing from the annual reports
18 submitted by every authorizer as well as any additional relevant
19 data compiled by the board, for the school year ending in the
20 preceding calendar year. The annual report shall include:

21 (1) A comparison of the performance of public charter
22 school students with the performance of [~~academically,~~



1 ~~ethnically, geographically, and economically~~
2 ~~comparable groups]~~ comparable subgroups of students in
3 public schools governed by chapter 302A;

4 (2) The board's assessment of the successes, challenges,
5 and areas for improvement in meeting the purposes of
6 this chapter, including the board's assessment of the
7 sufficiency of funding for public charter schools, and
8 any suggested changes in state law or policy necessary
9 to strengthen the State's public charter schools;

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

12 (4) Any concerns regarding equity and recommendations to
13 improve access to and distribution of federal funds to
14 public charter schools; and

15 (5) A discussion of all board policies adopted in the
16 previous year, including a detailed explanation as to
17 whether each policy is or is not applicable to charter
18 schools."

19 SECTION 16. Section 302D-28, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Beginning with fiscal year 2012-2013, and each fiscal
22 year thereafter, the non-facility general fund per-pupil funding



1 request for charter school students shall be the same as the
2 general fund per-pupil amount to the department in the most
3 recently approved executive budget recommendation for the
4 department [~~and~~], shall be based upon reasonable projected
5 enrollment figures for all charter schools[~~and~~], and shall include
6 only those students who fall within the purview of section
7 302A-1132. The general fund per-pupil request for each regular
8 education and special education student shall:

9 (1) Include all general fund regular education cost
10 categories, including comprehensive school support
11 services, but excluding special education services,
12 adult education, and the after-school plus program;
13 provided that these services are provided and funded
14 by the department; and

15 (2) Exclude fringe benefit costs and debt service."

16 SECTION 17. Section 302D-31, Hawaii Revised Statutes, is
17 amended to read as follows:

18 " ~~[§302D-31]~~ **Sports.** The department shall provide
19 students at charter schools, including students enrolled at
20 charter schools whose curriculum incorporates virtual education,
21 with the same opportunity to participate in athletics as is
22 provided to students at other public schools. If a student at



1 [a] any charter school wishes to participate in a sport for
2 which there is no program at the charter school, the department
3 shall allow that student to participate in a comparable program
4 of any public school in the complex in which the charter school
5 is located[-] or at the public school in the service area in
6 which the student resides. All charter school students
7 participating in athletics shall abide by all rules,
8 regulations, and policies of the athletic league, association,
9 and program applicable to the public school in whose athletic
10 program the student is participating."

11 SECTION 18. Section 846-2.7, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Criminal history record checks may be conducted by:

14 (1) The department of health or the department's designee
15 on operators of adult foster homes or developmental
16 disabilities domiciliary homes and their employees, as
17 provided by section 333F-22;

18 (2) The department of health or the department's designee
19 on prospective employees, persons seeking to serve as
20 providers, or subcontractors in positions that place
21 them in direct contact with clients when providing



1 non-witnessed direct mental health services as
2 provided by section 321-171.5;

3 (3) The department of health or the department's designee
4 on all applicants for licensure for, operators for,
5 prospective employees, and volunteers at one or more
6 of the following: skilled nursing facility,
7 intermediate care facility, adult residential care
8 home, expanded adult residential care home, assisted
9 living facility, home health agency, hospice, adult
10 day health center, special treatment facility,
11 therapeutic living program, intermediate care facility
12 for individuals with intellectual disabilities,
13 hospital, rural health center and rehabilitation
14 agency, and, in the case of any of the above
15 facilities operating in a private residence, on any
16 adult living in the facility other than the client as
17 provided by section 321-15.2;

18 (4) The department of education on employees, prospective
19 employees, and teacher trainees in any public school
20 in positions that necessitate close proximity to
21 children as provided by section 302A-601.5;



- 1 (5) The counties on employees and prospective employees
2 who may be in positions that place them in close
3 proximity to children in recreation or child care
4 programs and services;
- 5 (6) The county liquor commissions on applicants for liquor
6 licenses as provided by section 281-53.5;
- 7 (7) The county liquor commissions on employees and
8 prospective employees involved in liquor
9 administration, law enforcement, and liquor control
10 investigations;
- 11 (8) The department of human services on operators and
12 employees of child caring institutions, child placing
13 organizations, and foster boarding homes as provided
14 by section 346-17;
- 15 (9) The department of human services on prospective
16 adoptive parents as established under section
17 346-19.7;
- 18 (10) The department of human services on applicants to
19 operate child care facilities, prospective employees
20 of the applicant, and new employees of the provider
21 after registration or licensure as provided by section
22 346-154;



- 1 (11) The department of human services on persons exempt
2 pursuant to section 346-152 to be eligible to provide
3 child care and receive child care subsidies as
4 provided by section 346-152.5;
- 5 (12) The department of human services on operators and
6 employees of home and community-based case management
7 agencies and operators and other adults, except for
8 adults in care, residing in foster family homes as
9 provided by section 346-335;
- 10 (13) The department of human services on staff members of
11 the Hawaii youth correctional facility as provided by
12 section 352-5.5;
- 13 (14) The department of human services on employees,
14 prospective employees, and volunteers of contracted
15 providers and subcontractors in positions that place
16 them in close proximity to youth when providing
17 services on behalf of the office or the Hawaii youth
18 correctional facility as provided by section 352D-4.3;
- 19 (15) The judiciary on employees and applicants at detention
20 and shelter facilities as provided by section 571-34;
- 21 (16) The department of public safety on employees and
22 prospective employees who are directly involved with



1 the treatment and care of persons committed to a
2 correctional facility or who possess police powers
3 including the power of arrest as provided by section
4 353C-5;

5 (17) The board of private detectives and guards on
6 applicants for private detective or private guard
7 licensure as provided by section 463-9;

8 (18) Private schools and designated organizations on
9 employees and prospective employees who may be in
10 positions that necessitate close proximity to
11 children; provided that private schools and designated
12 organizations receive only indications of the states
13 from which the national criminal history record
14 information was provided pursuant to section 302C-1;

15 (19) The public library system on employees and prospective
16 employees whose positions place them in close
17 proximity to children as provided by section
18 302A-601.5;

19 (20) The State or any of its branches, political
20 subdivisions, or agencies on applicants and employees
21 holding a position that has the same type of contact
22 with children, vulnerable adults, or persons committed



1 to a correctional facility as other public employees
2 who hold positions that are authorized by law to
3 require criminal history record checks as a condition
4 of employment as provided by section 78-2.7;

5 (21) The department of human services on licensed adult day
6 care center operators, employees, new employees,
7 subcontracted service providers and their employees,
8 and adult volunteers as provided by section 346-97;

9 (22) The department of human services on purchase of
10 service contracted and subcontracted service providers
11 and their employees serving clients of the adult and
12 community care services branch, as provided by section
13 346-97;

14 (23) The department of human services on foster grandparent
15 program, retired and senior volunteer program, senior
16 companion program, and respite companion program
17 participants as provided by section 346-97;

18 (24) The department of human services on contracted and
19 subcontracted service providers and their current and
20 prospective employees that provide home and community-
21 based services under section 1915(c) of the Social
22 Security Act, Title 42 United States Code section



1 1396n(c), or under any other applicable section or
2 sections of the Social Security Act for the purposes
3 of providing home and community-based services, as
4 provided by section 346-97;

5 (25) The department of commerce and consumer affairs on
6 proposed directors and executive officers of a bank,
7 savings bank, savings and loan association, trust
8 company, and depository financial services loan
9 company as provided by section 412:3-201;

10 (26) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a
12 nondepository financial services loan company as
13 provided by section 412:3-301;

14 (27) The department of commerce and consumer affairs on the
15 original chartering applicants and proposed executive
16 officers of a credit union as provided by section
17 412:10-103;

18 (28) The department of commerce and consumer affairs on:
19 (A) Each principal of every non-corporate applicant
20 for a money transmitter license; and
21 (B) The executive officers, key shareholders, and
22 managers in charge of a money transmitter's



- 1 activities of every corporate applicant for a
2 money transmitter license,
3 as provided by section 489D-9;
- 4 (29) The department of commerce and consumer affairs on
5 applicants for licensure and persons licensed under
6 title 24;
- 7 (30) The Hawaii health systems corporation on:
- 8 (A) Employees;
- 9 (B) Applicants seeking employment;
- 10 (C) Current or prospective members of the corporation
11 board or regional system board; or
- 12 (D) Current or prospective volunteers, providers, or
13 contractors,
- 14 in any of the corporation's health facilities as
15 provided by section 323F-5.5;
- 16 (31) The department of commerce and consumer affairs on:
- 17 (A) An applicant for a mortgage loan originator
18 license; and
- 19 (B) Each control person, executive officer, director,
20 general partner, and manager of an applicant for
21 a mortgage loan originator company license,
22 as provided by chapter 454F;



- 1 (32) The state public charter school commission or public
2 charter schools on employees, teacher trainees,
3 prospective employees, and prospective teacher
4 trainees in any public charter school for any position
5 that places them in close proximity to children, as
6 provided in section 302D-B;
- 7 [~~+32+~~] (33) The counties on prospective employees who work
8 with vulnerable adults or senior citizens in
9 community-based programs;
- 10 [~~+33+~~] (34) The counties on prospective employees for fire
11 department positions which involve contact with
12 children or dependent adults;
- 13 [~~+34+~~] (35) The counties on prospective employees for
14 emergency medical services positions which involve
15 contact with children or dependent adults;
- 16 [~~+35+~~] (36) The counties on prospective employees for
17 emergency management positions and community
18 volunteers whose responsibilities involve planning and
19 executing homeland security measures including
20 viewing, handling, and engaging in law enforcement or
21 classified meetings and assisting vulnerable and
22 disabled citizens during emergencies or crises; and



1 ~~[(36)]~~ (37) Any other organization, entity, or the State,
2 its branches, political subdivisions, or agencies as
3 may be authorized by state law."

4 SECTION 19. Section 302D-22, Hawaii Revised Statutes, is
5 repealed.

6 ~~["~~§302D-22~~ Board as final arbitrator. (a) The board
7 shall serve as the final arbitrator of those appeals listed in
8 section 302D-15.~~

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

12 ~~(c) The board shall adopt applicable rules and procedures
13 pursuant to chapter 91 for implementing this section."]~~

14 SECTION 20. In codifying the new sections added by section
15 1 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 21. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 22. This Act shall take effect upon its approval.



Report Title:

Education; Charter Schools

Description:

Establishes provisions for charter schools relating to annual independent financial audits, criminal history record checks, enrollment, conflicts of interest, and hiring. Makes amendments to chapter 302D, HRS, for clarity and consistency. (HB674 HD1)

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

