



## HAWAI‘I EDUCATIONAL POLICY CENTER TESTIMONY

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Presented by Jim Shon, Director  
Hawaii Educational Policy Center  
January 29, 2014

### HAWAII EDUCATIONAL POLICY CENTER TESTIMONY BY JIM SHON, DIRECTOR

#### COMMITTEE ON EDUCATION

Rep. Roy M. Takumi, Chair  
Rep. Takashi Ohno, Vice Chair

DATE: Wednesday, January 29, 2014  
TIME: 2:00 p.m.  
PLACE: Conference Room 309

#### RE HB 1745 RELATING TO EDUCATION (SB 2518)

**HEPC opposes this bill as written. Several sections appear to be written as a Legislative second-guessing the authority of the Commission, or an a priori judgment that a dispute in a single school warrants punitive action in all schools.**

#### **Specifically**

**1. HEPc opposes SECTION 1.** It is the obligation of the Legislature to adequately and equitably fund the Charter School Commission and all public schools by providing sustainable financial resources to serve all public school students. At \$6,100 per pupil, charter schools already must set aside between 75-80% of these allocations only for teacher salaries. To withdraw further funds will not hurt the teachers, nor the administrators (whose salaries are protected by collective bargaining agreements.) It will hurt the students. Already there is barely enough funding to cover the increasing burdens of administrative red tape, not to mention music, art, facilities, or athletics. These are taken for granted in our HIDOE schools.

The well-known context of this issues is a public policy that provides a facility for every single HIDOE student, but no facility for the 10,000 charter school students, or their families.

This provision invites the legislature to further underfund charter schools and the Commission. HEPC urges this committee to respect the school-level costs of providing an adequate education by rejecting Section 1. HEPC also respectfully suggests the Committee take some time to speak directly with individual charter directors, who candidly are fearful of resisting some of these proposals.

**2. HEPC opposes Section j on p. 14, defining contractors as employees.** The implications of defining private contractors as employees may not be fully understood. There are many obligations and restrictions involving employees, including the ability to lobby the legislature. This provision appears to be an over-reaction to a recent dispute with the Ethics Commission. If the Ethics Commission desires to amend their section of the law to define all contractors with state agencies as employees, let them make that case in another bill. One impact of this provision may be to discourage vendors from doing business with schools or the Commission.

**3. HEPC opposes section d on page 32, which allows restructuring of the Board for undefined “unethical conduct” of a board member.** This too appears to be a reaction to a single incident still under dispute. HEPC urges this Committee to resist the temptation to micromanage every real or imagined issue. HEPC also notes that before the Legislature weighs in, perhaps the State Board of Education might seek to address some of the issues consistent with the way in which ethical issues are handled in HIDOE schools.

Thank you for the opportunity to offer this testimony.

Testimony HB1745  
House Education Committee  
January 29, 2014 Conference Room 309 2:00pm  
Support with concerns

Dear Chair Takumi and committee,

I would like to start by pointing out a very favorable part of this bill in section 2(k) of 302D-3 where it adds the sentence: "The legislature shall make an appropriation to the commission separate from, and in addition to, any appropriations made to charter schools pursuant to sections 302D-28 and 302D-29.5." I appreciate the use of the word "shall", as I know that it will happen, rather than the use of the word "may" where it might happen. The 2013 Legislature closed with no allocation to the newly created Commission office leaving it no options for an operational budget except to withhold \$1.2 million from EDN 600, literally taking a portion of our already reduced per pupil allocation. This reduced our per pupil amount to under \$6K/pupil for the third consecutive year.

Having said that, I see a conflict in adding a new section to 302D called "Fees". It allows the commission to assess fees to help cover its operating costs. What makes this even more troublesome is that "the commission may set the initial amount of such fees at any time without regard to chapter 91 (HAPA) if it holds at least one public hearing to take public testimony and provides at least 30 days public notice. If the commission goes over budget or the legislature does not entirely fund the operating costs of the Commission, the funds will be taken from our charter school childrens' per pupil allocation. The legislature should adequately fund the operations of the Commission like it does for all other State agencies and boards.

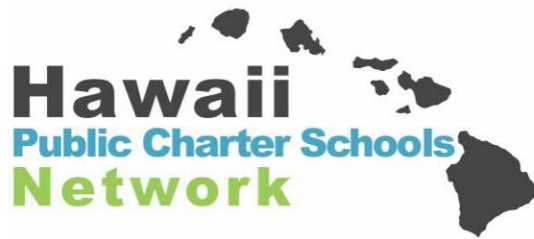
Our school was issued a charter from the State of Hawaii under subpart D of 302A prior to July 11, 2006 which made us a duly constituted Charter School. Other schools were chartered under 302B prior to June 19, 2012. With the proposed repeal of Section 302D-2 the definition of an existing charter school is stricken and the word charter contract is used synonymously with the word charter. This causes concerns because the contract, by Act 130, was supposed to be a bi-lateral contract with each school being able to negotiate with the Commission. In reality, the contract has been a unilateral contract with no negotiations, and a budget proviso that said that schools that did not have a contract would not be provided with allocations.

Section 302D-17 amends Section d and e and allows the Commission to reconstitute a governing board of its voting majority for unlawful or unethical conduct by its governing board members or the school's personnel. It also allows for "other" circumstances that raise serious doubts about the governing board's ability to fulfill its statutory, contractual, or fiduciary responsibilities. The "unlawful" acts are clear, but what would cause "unethical" conduct seem vague and undefined. What due process will take place to make the call to reconstitute the governing board?

Section 302D-28 subsection (f) has a very small addition with huge consequences. It adds: "...authorizers may make adjustments in allocations based on noncompliance with charter contracts..." Again, we have due process issues. What are the determining factors, who conducts the investigation, who holds the hearing, what is the appeals process?

Steve Hirakami

Director, Hawaii Academy of Arts & Science PCS



Hawaii State House of Representatives  
Committee on Education

DATE: Wednesday, January 29, 2014

TIME: 2:00 p.m.

PLACE: Conference Room 414, Hawaii State Capitol

Chair Tokuda, Vice Chair Kidani and members of the House Education Committee,

Re: HB1745 – Support with Reservations

Mahalo for the opportunity to testify on HB1745. Hawaii Public Charter Schools Network (HPCSN) is committed to quality education for all public school students in Hawaii through our work with Hawaii's public charter schools. This bill proposes a variety of changes to 302D, the charter school statute. HPCSN currently gathering information and feedback from charter schools and have two comments for your consideration at this time.

- 1) **Section 4, Page 6, Line 17** - Funds the commission separate from, and in addition to, the charter school per pupil calculation.

The legislature partnered with the charter school community to recodify the charter school law in 2012. The changes were focused on governance, authority and accountability. The charter school governance system is very different in that charter schools are accountable to their governing boards. The Governance, Accountability and Authority Legislative Task Force of 2011 anticipated, at that time, additional costs that would be associated with their proposal for sweeping changes to the charter school law. The addition of this section will provide the funding needed to assist schools with the many added responsibilities and obligations charter schools are now subject to since the passing of Act 130 of 2012.

- 2) **Section 10, Page 30, Lines 2-3 and 19-22** – Removes “annual performance targets set by each public charter school in conjunction with its authorizer...”

The language being removed specifically addresses, and preserves the idea of, charter school negotiation within the bilateral contract. The Commission is currently undergoing the process to create the Academic Performance Framework and is encouraging charter schools to participate.

We embrace the current language and request it not be deleted as it is similar in purpose to Annual Measureable Objectives (AMO) that are set for department schools within StriveHI.

Mahalo for your support of Hawaii's public students, their families and public charter schools.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Finnegan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lynn Finnegan  
Executive Director

NEIL ABERCROMBIE  
GOVERNOR



TERRI FUJII  
CHAIRPERSON

STATE OF HAWAII  
**STATE PUBLIC CHARTER SCHOOL COMMISSION**  
**(‘AHA KULA HO‘ĀMANA)**

<http://CharterCommission.Hawaii.Gov>  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: 586-3775 Fax: 586-3776

**LATE**

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FOR: HB 1745 Relating to Education  
DATE: Wednesday, January 29, 2014  
TIME: 2:00 p.m.  
COMMITTEE(S): House Committee on Education  
ROOM: Conference Room 309  
FROM: Tom Hutton, Executive Director  
State Public Charter School Commission

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**Testimony in support of HB 1745**

Chair Takumi, Vice Chair Ohno, and Members of the Committee:

The State Public Charter School Commission supports this bill, which incorporates the Commission’s request to the Legislature for various revisions to Hawaii’s charter school stature, Hawaii Revised Statutes (HRS) Chapter 302D.

Among other changes, this bill would:

- Authorize the Commission to assess fees to help cover its operation costs—the Commission is advised that it already has the authority to assess fees of charter schools, but the intent of the provision is not to charge fees of schools but of private entities, including application fees assessed on new charter school applicants.
- Clarify that the Commission’s budget shall be appropriated separately from, and in addition to, appropriations made to charter schools—this was the expectation when the new charter school law, Act 130 of 2012, was enacted and replaced the previous formula under which the Charter School Administrative Office (CSAO) had been funded with two percent of the per pupil funds appropriated for schools, but at the end of the

2013 legislative session the Commission's budget was unexpectedly funded from out of the schools' funding.

- Strengthen certain provisions relating to potential conflicts on charter school governing boards, including by providing for "cooling off" periods and addressing vendors and contractors that provide goods or services to the school.
- Expressly allow the Commission to reconstitute a charter school's governing board under certain exigent circumstances, including unlawful or unethical conduct by governing board members or school personnel or other circumstances that raise serious doubts about the current board's ability to fulfill its statutory, contractual, or fiduciary duties.

The Commission respectfully requests that the Committee consider several technical revisions to the bill and will be pleased to work with the Committee staff to provide the appropriate language. These include changing the effective date from upon approval to July 1, 2014, the start of the academic and fiscal year for charter schools.

In addition, we understand that the Hawaii Public Charter Schools Network has some concerns about a proposed revision the bill makes to HRS § 302D-16, the section of the statute addressing charter school performance frameworks. We are researching this issue and may be able to make a recommendation to respond to these concerns in time for this Committee's consideration.

Thank you for the opportunity to provide this testimony.

**From:** L Elento <iliked3@rocketmail.com>  
**Sent:** Friday, January 31, 2014 6:26 PM  
**To:** EDNtestimony  
**Subject:** HB1745: EDN 01-29-2014



To: The House Education Committee

From: Linda Elento

Thank you for the opportunity to provide oral testimony for HB1745 at the hearing on January 29, 2014 at 2:00 pm.

In reference to page 46 of HB1745, line 14, HRS 302D-34 begins with Enrollment at charter schools may not discriminate based on a student's disability. On page 47: The HRS section noted (6) "May give any other enrollment preference permitted by the charter school's authorizer, on an individual charter school basis, if consistent with law" gives rise to a charter school's interpretation and denial of entry for students who have disabilities and require only Section 504 (or ADA) accommodations because of lack of funding.

Hawaii statutes need to clearly define special education authority and provision of IDEA, Section 504, and ADA accommodations or modifications in charter school enrollment and programs, as children with disabilities are still being denied entry to charter schools.