

DAVID Y. IGE
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STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

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FOR: SB 2780 SD1 Relating to Charter Schools
DATE: Friday, February 26, 2016
TIME: 9:40 AM
COMMITTEE(S): Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of SB2780 SD1

Chair Tokuda, Vice Chair Dela Cruz, and members of the Committee:

The State Public Charter School Commission appreciates the opportunity to submit this testimony in support of Senate Bill 2780 SD1, "Relating to Charter Schools," which makes clarifying and conforming amendments to the statutory provisions governing charter schools.

The proposed measure as amended would:

- Prohibit the Commission from providing technical support to prospective charter applicants that would directly and substantially impact its decision related to the approval or denial of the charter applications, similar to the statutory admonition to the Commission regarding its oversight role as to current charter schools;
- Provide charter school governing boards more flexibility regarding the deadline for the posting of meeting agendas, minutes, and membership, as well as some minimal guidance regarding the quality of such disclosures to better ensure greater public transparency;
- Provide the same protections to a nonprofit organization that serves as a charter school's governing board as are afforded to other governing boards;

- Specify that the procedural requirements for Commission hearings are those already set forth in the charter school statute, including the right to legal representation, to present witnesses, etc., and not other requirements for contested case hearings set forth in Chapter 91, Hawaii Revised Statutes, or in other sources of law not specific to charter schools and charter school authorizers;
- Expressly allow charter schools to assess special fees and charges for co-curricular activities, to parallel the department of education's statute;
- Allow conversion charter schools (*i.e.*, former DOE schools, which remain the default neighborhood public school for their assigned attendance districts) to apply enrollment preferences, if they have any, to those enrollment seats remaining available after all students from within the school's attendance district have been admitted; and
- Expressly add the Commission to the non-exhaustive list of state agencies that are excluded from open meeting requirements of sections 91-8 and 91-9, HRS, when exercising a purely adjudicatory function, but, unlike for other agencies, limit this authority to matters on which the Commission already has made the decision in a public meeting; this would clarify that the Commission can issue a formal written decision on a matter it already has considered in open meeting, without requiring that the same question be agendized all over again in a second public meeting.

These proposed provisions represent incremental but important refinements to the statutory framework governing Hawaii's public charter school sector.

Thank you for your consideration of this testimony.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Ways and Means

From: Cheryl Kakazu Park, Director

Date: February 26, 2016, 9:40 a.m.
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 2780, S.D. 1
Relating to Charter Schools

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) has concerns about proposed amendments to section 92-6(a)(2), HRS, set out at bill section 7 (beginning at page 9, line 7). OIP takes no position on the remainder of the bill.

The S.D. 1 version of this bill would add the Charter School Commission to a nonexclusive list of Sunshine Law boards that are recognized to perform some adjudicatory functions, and thus are exempt from the Sunshine Law’s requirements while exercising those adjudicatory functions, but only as to matters the Commission has already decided. This is contradictory, and will lead to problems with interpretation.

Section 92-6(a)(2), HRS, does not set out an all-purpose exemption to the Sunshine Law for the listed boards; rather, it provides that boards holding contested case hearings or similar adjudications subject to either chapter 91’s contested case standards or another set of statutory standards applicable to their adjudications are not required to also follow the Sunshine Law when going through

the contested case (or similar) process. Such boards are still subject to the Sunshine Law for everything else they do.

Because the list of boards recognized to have an adjudicatory function is non-exclusive, a board that holds contested case hearings or is subject to a similar statutory scheme for its adjudicatory functions to be able to fall under this exemption; in other words, **assuming that the Commission does hold contested case hearings or follows a similar statutory scheme in its adjudications, adding the Commission to the list of boards that perform adjudicatory functions doesn't change anything.** However, what the S.D. 1 version of this bill would do is to specify that the Commission performs an adjudicatory function only with regard to "matter[s] on which the commission has already rendered a decision in a public meeting." In other words, **under the proposed language, the Legislature is declaring that the Commission cannot claim to be exercising its adjudicatory function when it is actually holding a contested case or following other applicable statutory standards to decide an issue, but only when it discusses matters it has already rendered a decision on, which by definition are no longer in need of its adjudication.** OIP would be at a loss to interpret the effect of that language, although a **logical reading would seem to be that the Commission cannot ever claim to be exercising an adjudicatory function.**

If the Commission decides matters for which it must follow contested case standards or a similar statutory scheme and it is the Legislature's intent to recognize that the Commission has "adjudicatory functions" subject to section 92-6, OIP would recommend that this Committee amend the language at lines 8-10 to remove the limitation "as to a matter on which the commission already has rendered a decision in a

public meeting.” If, on the other hand, the Legislature does not find that the Commission holds contested cases or follows a similar statutory scheme when deciding matters before it, OIP would recommend that bill section 7 be deleted in its entirety.

Thank you for the opportunity to testify.



SB2780 SD1
RELATING TO CHARTER SCHOOLS
Senate Committee on Ways and Means

February 26, 2016

9:40 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2780 SD1, which, among other provisions, exempts charter school revocation and nonrenewal processes from the agency hearing requirements under Hawai‘i Revised Statutes (HRS) Chapter 91, and exempts the State Public Charter School Commission (Commission) from the Sunshine Law requirements of HRS Chapter 92, for certain matters.

Given the Commission’s potential to significantly impact the education of our public charter school students, including those enrolled in Hawaiian-focused or Hawaiian language charter schools, SB2780 SD1 continues to raise due process and procedural concerns. **OHA respectfully requests that Sections 4 and 7 of this measure be deleted, or that this measure be deferred to allow outreach between the Commission, charter schools, and the State Board of Education as appropriate.**

There are several reasons for this request. The State Board of Education (BOE) conducted a Listening Tour in November and December 2015, attended by charter school principals, governing board members, and stakeholders, related to concerns raised about the Commission. Subsequently, on January 19, 2016, the BOE unanimously approved a motion to assign three BOE members to an investigative committee to determine if a special review of the State Public Charter School Commission is warranted and, if so, to develop the process and procedures for such a review using nationally recognized principles and standards for quality charter authorizing, pursuant to HRS Section 302D-11(c). OHA respectfully submits that this measure may be premature, in light of the BOE’s recent actions and ongoing investigation.

Further, Section 4 of this measure exempts charter revocation and nonrenewal proceedings from contested case procedures and due process protections provided under Chapter 91. Chapter 91 contested case proceedings, which include a number of procedural requirements such as recorded findings of fact and conclusions of law, are designed to provide fair and adequate due process to affected parties of agency decisions. In the case of charter revocation and charter nonrenewal, the due process procedures in HRS Chapter 91 may be critical to protecting the rights and interests of charter school students, parents, the 501(c)(3) non-profit arms of charter schools, private funders, and the State itself.

Moreover, Section 7 of this measure exempts the Commission from the open meeting requirements of HRS Chapter 92 when engaged in adjudicatory functions. Such a provision heightens the concerns raised by the contested case hearing exemptions of Section 4, by eliminating any opportunity for public notice or oversight in decisions that may affect the interests of individual public charter schools, as well as their students and stakeholders. The private and public interests in such adjudicatory actions counsel the retention of Chapter 92's open meeting requirements, which OHA notes already contain exceptions for executive sessions and discussions of personal or confidential matters. See HRS §§ 92-4, -5.

Finally, OHA notes that this measure was heard by the Senate Education Committee on February 1, 2016. In response to opposition by public charter schools and stakeholders, the Senate Education Committee deferred decision-making to February 12, 2016, and urged the Commission to outreach with public charter schools in the interim. It is OHA's understanding that the requested outreach has still not taken place. During the hearing on SB2780, a member of the Hawai'i State Board of Education ("BOE"), in his individual capacity, also noted that Section 8 of SB2780 (reflected in Section 7 of SD2780 SD1) "would potentially allow the Commission to claim that it was making certain high stakes decisions about charter schools in private, due to its 'adjudicatory functions.' Unlike the Board of Education (which is NOT on the list to which this bill would add the Commission) the Commission does not handle appeals from agencies not under its direct control. The only appeals heard by the Commission are related to charter school applicants and charter schools. These types of appeals should not be termed 'adjudicatory' as they are part of the Commission's core responsibilities." The BOE member concluded that key provisions of SB2780 are highly objectionable and others are unnecessary, and recommended that the Senate Education Committee hold SB2780.

For the foregoing reasons, OHA **respectfully requests that Sections 4 and 7 of this measure be deleted, or that this measure be deferred to allow outreach between the Commission, charter schools, and the State Board of Education as appropriate.** Mahalo nui for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: ekekela@ahapunanaleo.org
Subject: Submitted testimony for SB2780 on Feb 26, 2016 09:40AM
Date: Thursday, February 25, 2016 9:08:14 AM

SB2780

Submitted on: 2/25/2016

Testimony for WAM on Feb 26, 2016 09:40AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ekekela Aiona	Aha Punana Leo	Oppose	No

Comments: Testimony of the 'Aha Punana Leo, Non-Profit Educational Organization Dedicated to the Revitalization of the Hawaiian Language Aloha Senator Jill N. Tokuda, Chair and Senator Donovan M. Dela Cruz, Vice Chair and members of the Committee on Ways and Means My name is 'Ekekela Aiona, Executive Director of the 'Aha Punana Leo. The 'Aha Punana Leo is opposed to SB2780 SD1. We do not support the exemption of the state public charter school commission for open meeting requirements under certain circumstances. Mahalo nui

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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

Senate Committee on Ways and Means

Friday, February 26, 2016
9:40 A.M.
Hawaii State Capitol, Room 211

Senate Bill 2780, SD1, Relating to Charter Schools

Dear Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Board of Education ("Board") voted to testify in opposition of Senate Bill 2780 SD1, which would, among other things, establish additional requirements for charter school governing board meetings and exempt the State Public Charter School Commission ("Commission") from certain public meeting requirements.

The Board believes the interests of the public and charter school students would best be served by this Committee indefinitely deferring this measure. An earlier draft of this measure would have allowed the Commission to adopt interim rules for 18 months and forego the formal promulgation of administrative rules. While the Board appreciates the removal of that provision, the remaining provisions range from unnecessary to unacceptable.

Section 1 would clarify that authorizers should not provide technical support to charter school applicants. While the Board does not object to this provision, the Board believes the provision is not necessary, and it should not be used as a justification for keeping this measure alive.

Section 2 would place additional requirements on charter school governing boards for posting of meeting documents. The current requirements are sufficient to protect the interests of charter school stakeholders and the public. The Board believes it is unnecessary to impose additional requirements. The Commission should focus its efforts on the current statutory requirements.

Section 3 would provide protections to some applicant governing boards. Applicant governing boards are not government entities until their applications are approved by the Commission and they execute charter contracts. This provision seems contrary to wise public policy.

Section 4 would essentially exempt the Commission's decision-making process regarding revocation and nonrenewal of charter contracts from Chapter 91, Hawaii Revised Statutes. Revocation and nonrenewal are the most significant and high stakes decisions the Commission can make. Transparency and due process are especially important for all concerned during Commission decision-making on these and related decisions. The Board urges this Committee to refrain from approving this provision in any form.

Section 5 would clarify that charter schools are permitted to charge certain fees. This provision is unnecessary as charter schools already have the ability to collect fees for co-curricular activities, and this proposal should not be used as a reason to keep this measure alive.

Section 6 would exempt conversion charter schools from the Department of Education's geographic exceptions procedures and allow them to establish enrollment preferences for students not located within the respective school's geographic service area. The Board is not aware of problems with the current provision that would warrant a change in the statute.

Section 7 would explicitly include the Commission as a board that exercises adjudicatory functions in matters it has already decided upon in a public meeting. The Board objects to this provision and notes that the Board itself is not explicitly included on the list to which this measure would add the Commission. This provision would potentially allow the Commission to claim that it was making certain high stakes decisions about charter schools in private due to its "adjudicatory functions."

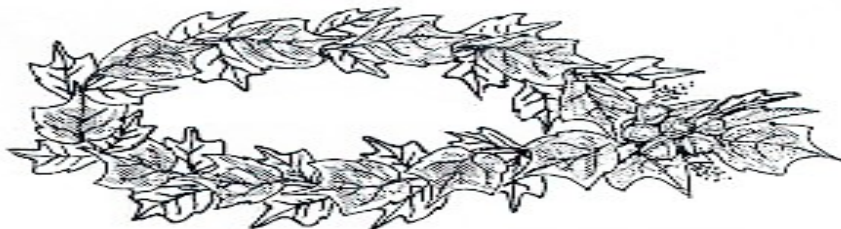
In summary, the Board believes there is no reason for this measure to move forward and respectfully requests that this Committee defer SB 2780 SD1 indefinitely.

Thank you for this opportunity to testify on behalf of the Board.

Very truly yours,

A handwritten signature in cursive script that reads "Lance A. Mizumoto". The signature is written in black ink and is positioned above the printed name and title.

Lance A. Mizumoto
Chairperson



'A'ole pau ka 'ike i ka hualau ho'okahi

Connections Public Charter School

A Community, Business & Education Learning `Ohana

Testimony Strongly Opposing Senate Bill 2780

Public Hearing on February 26, 2016 at 9:40 am

John Thatcher, Connections Public Charter School

Chairperson Tokuda, Vice Chair Dela Cruz and Members of the Senate Committee on Ways and Means:

Thank you for this opportunity to testify regarding my strong opposition to Senate Bill 2780. This bill is both an assault on the autonomy of our charter schools and another attempt to endow the Commission with powers that undermine the public's ability to scrutinize and participate in decisions that may ultimately affect the very existence of charter schools in Hawai'i.

There are several provisions in this bill that are troubling. The State Public Charter School Commission is seeking exemptions from key provisions of the law that ensure fairness in applications of the law and the public right to participate in the formation of public policy. This bill is coalesced with provisions that appear beneficial to the charter schools in an attempt to conceal the actual intentions. The provisions in this bill pertaining to meetings by the governing boards of charter schools are an attempt to micromanage the charter schools, thus undermining their statutorily guaranteed autonomy. In light of the recent Board of Education scrutiny of the Commission and its staff, this bill appears to be retaliation for the recent Board of Education Listening Tour.

I am especially concerned with the Commission's request for an exemption from provisions of the Sunshine Law. The law (§302D-3) says, "Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92." The Commission's current administrative rules (§8-501-4) says "All meetings shall be conducted in accordance with chapter 92, Hawaii Revised Statutes." I question the Commission's need for an exemption to provisions of the law (specifically §92-6). This proposed exemption is especially troubling given the fact that there are at least two active Office of Information Practices (OIP) complaints against the Commission. On May 20, 2015, the Executive Director of the Commission received a letter from the OIP. Their staff attorney wrote, "The Office of Information Practices (OIP) has received an appeal from Mr. John Thatcher, concerning the State Public Charter School Commission (SPCSC) meeting held on May 14, 2015. Specifically, Mr. Thatcher asks whether the SPCSC violated Part I of chapter 92, Hawaii Revised Statutes (Sunshine Law), by considering Connections Public Charter School's (Connections) 'use of enrollment form 515-LOW or [Connections's] request for a written decision by the Hawaii State Public Charter School Commission regarding this matter,' even though the item was not on the agenda for the General Business Meeting held on May 14, 2015."

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Email: john_thatcher@hawaii.rr.com

On July 7, 2015, I received an email from a staff attorney with the State of Hawaii Office of Information Practices. It said, "The Office of Information Practices (OIP) is in receipt of your e-mails dated June 20, 2015 and July 1, 2015, requesting a status update regarding S APPEAL 15-26. On June 5, 2015, OIP received the Department of the Attorney General's (AG) response, on behalf of the State Public Charter School Commission (Commission), to OIP's Notice of Appeal of Sunshine Law Complaint. This Response Letter dated June 3, 2015 indicates that the AG also provided you with a copy of the letter. Currently, OIP is experiencing a backlog of cases and is striving to complete work on the oldest appeals first. It could therefore be quite some time before work on these appeals are completed. For your information, any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, or to determine the applicability of the Sunshine Law to discussions or decisions of a government board. Hawaii Revised Statutes (HRS) §92-12(c) (2012). The court may order payment of reasonable attorney fees and costs to the prevailing party in such a lawsuit. Where a final action of a board was taken in violation of the open meeting and notice requirements of the Sunshine Law, that action may be voided by the court. HRS §92-11 (2012). A suit to void any final action must be commenced within ninety days of the action."

In his February 8, 2016 testimony before the House Committee on Education, Tom Hutton said, "We request that the provision specifically adding the Commission to the non-exhaustive list of agencies exercising purely adjudicatory functions be revised to limit this authority to matters on which the Commission already has made the decision in a public meeting. The proposal was intended to address a situation in which the Commission was asked to issue a written decision in a matter on which it already had voted multiple times in public meetings and was advised that this adjudicatory function need not necessitate yet another public meeting on the same matter."

Then on February 11, 2016, at the Commission's general meeting, Hutton reported on the Commission Legislative Advocacy for 2016 Legislative Session requesting the following action, "Revise the position on adding the Commission expressly to the non-exhaustive statutory list of agencies that are exempt from on meeting requirements when exercising purely adjudicatory functions, to stipulate that this authority shall be limited to matters on which the Commission already has made the decision in a public meeting. The proposal was intended to address a situation in which the Commission was asked to issue a written decision in a matter on which it already had voted multiple times in public meetings and was advised that this adjudicatory function need not necessitate yet another public meeting on the same question."

Hutton's insinuation that the Commission had previously made a decision concerning the admissions and enrollment policies and practices for Connections Public Charter School is not accurate. No definitive decision was made by the Commission on this matter until a May 14, 2015 meeting attended by seven Commissioners and documented by a letter from Catherine Payne on May 15, 2015. The issue first appeared at the December 11, 2014 general business meeting of the Commission as agenda item III. According to the approved minutes, action on this item was deferred by Commission Chair Payne until the January, 2015 meeting. Connections Public Charter School was not on the agenda for the January 8 or 15, 2015 Commission general meetings. At the March 12, 2015 Commission general meeting conditional approval of Connections' admissions policy and practices was approved, "contingent on the school's use of a modified version of the DOE enrollment form that removes the questions regarding McKinney-Vento eligibility, ethnicity, gender, and language spoken by applicant." Commission staff were directed "to work with the school to ensure that the modified form will be used for its summer admissions cycle and report on this to the Commission no later than its June 2015 general business meeting."

At the June 18, 2015 Commission general meeting Hutton reported, “The approval of the school’s admission policy was contingent on the removal of questions regarding McKinney-Vento eligibility, ethnicity, gender, and language spoken in its admissions application. A check of the school’s website confirmed that the school continues to use the Department of Education’s enrollment form, which contains the questions that the school has been requested to remove, as its admission application. Staff will continue to seek a resolution to this matter prior to the start of the school’s July admissions period.” This report was again presented at the July 9, 2015 general business meeting with the following added, “The school’s director has filed a complaint with the Office of Information Practices over the Commission’s approval in a non-public meeting of its written decision on the school’s contract dispute over this matter. When and how staff follows up may depend upon the likely timing of the resolution of that complaint.” During the August 13, 2015 general business meeting Hutton reported, “The July Executive Director’s Report erroneously reported that the school had continued to use the Department of Education’s enrollment form as its admission application, including questions inappropriate for the applications stage concerning the child’s characteristics. In fact, the school revised its admission application and enrollment form on June 17, 2015. This revised form removes all the questions the school had been directed to remove, except for a question asking whether the applicant is homeless. The school’s director stated that he still was expecting a response to an inquiry from the DOE on asking about an applicant’s homeless status. However, the DOE has notified the director that it will not be weighing in on this matter. The Commission continues to work with the school on this issue.” The school’s admission policy was finally approved at the September 10, 2015 general business meeting through a request by the school to allow for an enrollment preference for educationally disadvantaged students.

There is nothing in this bill that will have a positive impact on charter schools. We do not need changes in the law to collect special fees and charges from students for co-curricular activities. I strongly urge you to defer this bill.



HAWAI'I EDUCATIONAL POLICY CENTER TESTIMONY

SEMATE COMMITTEE ON WAYS AND MEANS
FRIDAY FEBRUARY 26
9 AM ROOM 211

RE SB 2780 S.D.1 RELATING TO CHARTER SCHOOLS (HB 2205 HD1)

HEPC HAS SERIOUS CONCERNS REGARDING SECTIONS OF THIS BILL

Background

In previous hearings, the bill was met with much opposition among charter schools and other stakeholders. The content raises a number of important issues relating to transparency, due process, and public participation.

HEPC sees this proposed bill as part of a trend of other education bills seeking to remove educational decision making from openness and transparency. Determining the balance between functionality and public participation is an important public policy decision. Other bills would require more public access to agendas, documents, and presentations in education and other boards. This brief analysis is intended to highlight some of the debate, and suggest an agenda that favors public transparency and participation.

HEPC Analysis.

Section 1. Doubles down on the withholding of basic support for charter schools. The HIDOE, and most public education systems, have created a three legged stool of structure and administration: (a) advocacy; (b) accountability; and (c) support to enhance success. With the most recent major amendments of the charter law, two of these three legs have been sawed off (advocacy and technical support) – under the theory that oversight should *never* include support. Our law was inspired by the National Association of Charter School Authorizers which rejects the usual public school management mission.

Section 1. prohibits the Commission from providing technical support for charter applicants, as well as existing charter governing boards. Although technical assistance is not well defined, it could easily include actions such as sharing important information. This existing section appears to allow some technical assistance, but on closer inspection there really is nothing of substance – such as federal requirements requiring an authorizer to provide services.

If the legislature wished to improve the flow of information and assistance to charters by its only state authorizer, it could consider deleting section 302D-5 (g) from the law.

~~(g) An authorizer shall not provide technical support to a charter school it authorizes in cases where the technical support will directly and substantially impact any authorizer decision related to the authorization, renewal, revocation, or nonrenewal of the charter school. This subsection shall not apply to technical support that an authorizer is required to provide to a charter school pursuant to federal law. [L 2012, c 130, pt of §2; am L 2013, c 159, §5; am L 2014, c 99, §5; am L 2015, c 114, §3]~~

An alternative would be to define “technical assistance” and the phrase: “directly and substantially impact any authorizer decision.” If the law is allowed to stand as is, with or with the proposed amendments in this bill, interpretations may become arbitrary, capricious, and ever changing. In fact, a recent Board of Education listening initiative found that the constantly changing accountability policies of the Commission were a major issue for charters.

This section also substitutes “contract” for the word “school.” It is important to recognize that the charter school contract has morphed from an implementation of the law, to overriding state law.

HRS 302D -12 (f) states:

“(f) The governing board shall be the independent governing body of its charter school and shall ***have oversight over and be responsible for the financial, organizational, 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 governing board shall ensure its school complies with the terms of the charter contract between the authorizer and the school. The governing board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.”

Charters cite contract provisions that appear to shift power and authority from governing boards to the Commission. For example, section 3.1 of the contract reads as follows:

3.1. School’s Control. ***Subject to the terms and conditions of the Contract,*** the School shall have control over and responsibility for the design and delivery of the educational program and for attaining the academic performance standards and targets established in the Performance Frameworks attached as Exhibit B and, subject to Section 3.2, shall have the discretion to modify, amend, adapt, and otherwise change its educational program as it deems necessary to achieve the academic performance standards and targets.

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Issue: How can the contract condition the school’s “independent authority” of the law?

The contract goes on in the next section, 3.2 Material Elements of Educational Program.

3.2 The material elements of the School’s Educational Program, including but not limited to the School’s mission and vision statements, are as set forth in Exhibit A to this Contract. The School shall, at all times, operate in a manner consistent with its Educational Program as defined in Exhibit A. Revisions to any of the elements in Exhibit A shall be considered a material change to the Contract and **shall require prior written approval by the Commission**; where appropriate, this approval shall be informed by an analysis of the School’s performance on the Performance Frameworks under Section 4.1, provided that such approval shall not be unreasonably withheld, particularly to the extent that such changes are intended to improve educational outcomes.

Issue: This language, requiring analysis and written approval, clearly shifts the independent authority of the charter school to the Commission and its staff. Subsequently, under section *14.2 Amendments*, the contract says clearly this is not just a staff function, but “Any amendment to this Contract shall be effective only if approved **by a majority vote of the Commission** at a public meeting.” Section 14.2.2 covering changes that require an amendment to the contract, are the following:

- a) To any material term of the School’s Education Program
- b) In school location (relocation of site or adding or terminating sites);
- c) In school management arrangement (such as intention to hire or terminate a management provider);
- d) In admissions or enrollment policies or procedures.

A common reading of HRS 302B12-(f) tells us that these are all functions granted ONLY to the governing board of the charter school. There is nothing in the law that transfers that power to the Commission.

The contract also includes an operational standard that requires cash flow on hand for sixty days, while the Commission is, at time withholding funding that would normally meet this standard.

Section 2. originally imposed reporting requirements on minutes of charter board meetings that might well discourage informal and open discussion and input from the charter school community. The most onerous language has been removed. Some generic information required to be available on line does improve the sharing of information and transparency.

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Section 3. affords protections consistent with other governing boards. HEPC supports this section.

Section 4. is by far the most troublesome.

Apart from voting and participating in legislative hearings, most citizen rights, due process, transparency and engagement are with agencies, boards, and departments. Democratic rights are guaranteed through our Sunshine law (Ch 92, the Administrative procedures law and rulemaking (Ch 91), as well as the ethics law and access to documents. (See Appendix A of this testimony for a short summary of the most important citizen rights under Chapter 91)

Section 4 exempts Charter Commission deliberations to close a school from the safeguards embedded in writing administrative rules under Chapter 91. It should be noted that Ch 91 includes procedures that incorporate Sunshine. This is one of most *un*-transparent proposals of this bill, and the draft offers no justification why the most consequential decisions of a Commission – the closing of a school – should operate from public view and participation.

If the Legislature wished to maintain openness, it could delete section 4 from the bill.

It should be noted that the Charter School Commission is perhaps the only state agency that can create another public agency (a charter school) or abolish it, without any approval or involvement of the Legislature.

Why the Commission would want to exempt itself from basic democratic safeguards is not clear.

Section 5. relates to the collection of special fees for student activities, and does not appear to impact on transparency. HEPC supports this section.

Section 6. seeks to add outside controls for charter enrollments in conversion schools. It is not clear if this conflicts with other sections of the charter law that explicitly grants the administrative powers to run a school to its governing board.

Section 7 again chooses shadows vs. sunshine. PART II, Section 7 seeks to exempt the Commission from sections of Chapter 91-8 and 91 – 9. , placing it in the category of the Judiciary, and a variety of other specialized boards.

91-9 is an important quasi-judicial safeguard, of crucial importance if Commission action involves the withholding of funds, or the revocation of a contract (ie the school’s charter).

Specifically:

§91-9 Contested cases; notice; hearing; records. (a) Subject to section 91-8.5, in any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall include a statement of:

- (1) The date, time, place, and nature of hearing;
- (2) The legal authority under which the hearing is to be held;
- (3) The particular sections of the statutes and rules involved;
- (4) An explicit statement in plain language of the issues involved and the facts alleged by the agency in support thereof; provided that if the agency is unable to state such issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished;
- (5) The fact that any party may retain counsel if the party so desires and the fact that an individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.

(c) Opportunities shall be afforded all parties to present evidence and argument on all issues involved.

(d) Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(e) For the purpose of agency decisions, the record shall include:

- (1) All pleadings, motions, intermediate rulings;
 - (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
 - (3) Offers of proof and rulings thereon;
 - (4) Proposed findings and exceptions;
 - (5) Report of the officer who presided at the hearing;
 - (6) Staff memoranda submitted to members of the agency in connection with their consideration of the case.
- (f) It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.
- (g) No matters outside the record shall be considered by the agency in making its decision except as provided herein. [L 1961, c 103, §9; Supp, §6C-9; HRS §91-9; am L 1980, c 130, §1; gen ch 1985; am L 2003, c 76, §2]

HEPC does not understand the desire of the Commission to be exempt. However, HEPC does note that the exemption included under SECTION 7 relating to a matter already voted upon could be related to a private meeting by Commissioners reaffirming a decision – an issue now before the Office of Information Practices for review.

In Conclusion, analysis and thoughtful examination of HB 2205 HD! opens an important discussion about how open, transparent, and participatory our State institutions should be.

HAWAI‘I EDUCATIONAL POLICY CENTER

1776 University Avenue, Castle Memorial Hall 133 • Honolulu, Hawai‘i 96822

Dr. Jim Shon, Director Phone (808) 282-1509 • jshon@Hawaii.edu

<http://manoa.Hawaii.edu/hepc/>

Appendix I. Key Elements of Chapter 91.

HEPC GUIDE TO KEY SECTIONS OF HRS CHAPTER 91: ADMINISTRATIVE PROCEDURES

Various proposals to exempt agencies from Chapter 91 seek to remove a number of sections related to public participation and due process. Key public safeguards within Chapter 91 include provisions for public information; procedures for adoption of rules; publication of rules; the right of any citizen to petition for adoption, amendment or repeal of rules; the right to challenge rules in court; the procedures for contested case hearings. Current 2016 Legislative proposals include SB 2780 and HB 2205.

Section 91-2 summarizes several key elements of public information:

§91-2 Public information. (a) In addition to other rulemaking requirements imposed by law, each agency shall:

(1) Adopt as a rule a description of the methods whereby the public may obtain information or make submittals or requests.

(2) Adopt rules of practice, setting forth the nature and requirements of all formal and informal procedures available, and including a description of all forms and instructions used by the agency.

(3) Make available for public inspection all rules and written statements of policy or interpretation formulated, adopted, or used by the agency in the discharge of its functions.

(4) Make available for public inspection all final opinions and orders.

(b) No agency rule, order, or opinion shall be valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been published or made available for public inspection as herein required, except where a person has actual knowledge thereof.

(c) Nothing in this section shall affect the confidentiality of records as provided by statute.

§91-2.6 Proposed rulemaking actions and rules; posting on the lieutenant governor's internet website ensures that all members of the public have access to proposed rules through postings on the lieutenant governor's web site. This is important because some agencies, boards and commissions are behind in their technical staff and web site postings.

§91-3 Procedure for adoption, amendment, or repeal of rules. This section ensures adequate notice of public hearings and availability of the contents of the proposed rules.

§91-4 Filing and taking effect of rules. This section ensures that rules, once adopted, are made readily available to the public.

§91-5 Publication of rules. This section ensures that state agencies, including charter schools, may receive free copies of the final rules.

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§91-6 Petition for adoption, amendment or repeal of rules is crucial for public participation in the administrative rules regime. It allows anyone to petition the agency (the Commission) to adopt, amend, or repeal a rule. It applies the Sunshine law to the process, and thus exemption from this section also includes exemption from Chapter 9-3. It reads:

§91-6 Petition for adoption, amendment or repeal of rules. Any interested person may petition an agency requesting the adoption, amendment, or repeal of any rule stating reasons therefor. Each agency shall adopt rules prescribing the form for the petitions and the procedure for their submission, consideration, and disposition. Upon submission of the petition, the agency shall within thirty days either deny the petition in writing, stating its reasons for the denial or initiate proceedings in accordance with section 91-3.

§91-7 Declaratory judgment on validity of rules. This section allows citizens to challenge rules in court.

§91-8 Declaratory rulings by agencies. This section allows citizens to petition for a ruling as to applicability of an adopted administrative rule to an agency action.

§91-8 Declaratory rulings by agencies. This section encourages the incorporation in rules encouragement for mediation.

§91-9 Contested cases; notice; hearing; records. This section sets out various safeguards for contested case hearings, including the application of the Sunshine law to the process

§91-9.5 Notification of hearing; service. This section requires proper notification of hearings.

§91-10 Rules of evidence; official notice. This section lays out the process, rules of evidence and procedures in a contested case hearing.

§91-12 Decisions and orders. This section requires separate findings of fact and law in a decision or order. They cannot be arbitrary or capricious.

Summary

HEPC encourages all policy makers take into consideration these provisions when considering exempting any agency, board or commission from Chapter 91. HEPC also expresses a concern that should any agency receive a new exemption, others may seek the same – which would only diminish the public safeguards embedded in Chapter 91.

Marion K A Kapuniai
P. O. Box 6753
Kamuela, Hawaii 96743

February 25, 2016

COMMITTEE ON WAYS AND MEANS

Hearing: Friday, February 26, 2016 9:40 a.m.
Conference Rm 211 State Capitol, Hawaii

TESTIMONY ON SB2780 SD1

Establishes requirements for meetings. Authorizes charter schools to assess fees and charges for co-curricular activities. Clarifies that revocation and nonrenewal proceedings shall not be subject to Chapter 91, Hawaii Revised Statutes. Exempts certain adjudicatory functions of the state public charter school commission for opening meeting requirements under certain circumstances. (SD1)

I, an interested and concerned citizen, and Governing Board Member of Kanu O Ka 'Aina New Century Public Charter School testify to:

OPPOSE SB2780 SD1, unless further amended.

SECTION 2. (h) (3), (5) OPPOSE amendments to 302D-12, unless further amended.

(3) Keep Governing Board approved written minutes of all public meetings that shall include:

(3) (C)(D) DELETE AS PRESENTED

(C) AMEND The motions proposed, seconded, and the vote to accept or not accept.

(5) Post the Governing Board approved written minutes from public meetings:

Minutes serve to memorialize and to confirm actions taken!

SECTION 4. (h) (3) OPPOSE amendment to 302D-18

This is another example of attempting to erode and infringe upon our rights to due process

Protections. (An attempt to circumvent the Board of Education's approval of a permitted interactive group to investigate complaints and concerns against the Charter School Commission and its Staff, led by its Executive Director.) **The Charter School Commission and its staff SHALL BE SUBJECT TO ALL PROVISIONS UNDER CHAPTER 91!**

SECTION 7. (a) (2) (G) OPPOSE amendment to Section 92-6 HRS

Further Comment:

The amendments proposed in this bill combine unrelated issues. This bill should go no further as presented.

We have identical kuleana – to SERVE and REPRESENT with FULL TRANSPARENCY.

I appreciate this opportunity to participate!

Thank You, M Kapuniai,
Waimea, Moku O Keawe
Governing Board Officer/Kanu O Ka 'Aina NCPCS

Phone: (808) 936-0157
Email: duke@sandwichisles.net

Testimony SB2780 SD1
Senate Ways and Means Committee
February 26, 2016 Conference Room 211 9:40 am
Oppose

Dear Chair Tokuda and committee,

I oppose the general intent of this bill to allow the State Public Charter School Commission to operate with less transparency and accountability as to statutes involving administrative rules and the sunshine law. If you browse the past testimonies of this bill, you will discover that 90% or more has been in opposition. The proponents of the bill offer no valid testimony as to why these changes to existing statute is needed. We desperately need public transparency in charter school oversight.

Section 1. This section prohibits the Commission from providing technical support for charter school applicants as well as existing charter governing boards. Technical support comes in many forms and this lack of support from the authorizer has created functional and operational problems for existing charter schools, so I would imagine that it would have an even larger impact on those applicants who don't know how the system works. I would say with emphasis that charter schools, existing and proposed, need more technical support not less. With the statute change from 302B to 302D, the central administrative support went from "okay but not great" to "non-existent". Imagine if all 260 traditional public schools had an overstuffed BOE with no support from a DOE. That's how it is in charters.

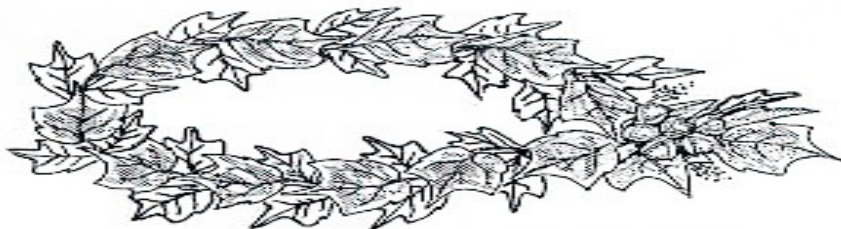
Section 2. Minor changes to 302D-12 (3) (D) states: "Keep written minutes of all public meetings that shall include (D) The views of the participants; (E) A record, by individual member, of any votes taken." Written minutes kept at Governing Board meetings should not have to include the views of the participants. This often times is not related to the business part of the meetings. This requirement will discourage open and informal discussion by stakeholders in the public meeting. The records of individual member votes are kept only in the case of a roll call where there is a 2/3 vote necessary to pass a motion which in some cases may be amendments to the Governing Board by-laws. There is no need to record every vote and keep a log of the voting record of each member. I don't even understand why these restrictions on board meetings are even proposed.

Section 4. This part of the bill is by far, the most objectionable. The change to 302 D-18 states: "(3) Provide charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose; provided that the proceeding shall not be subject to chapter 91." This is probably the most critical meeting for Charter school staff and board members facing school closure. Why should this important hearing be out of the public eye and limit their participation. This eliminates contested cases hearings and denies the charter school due process.

Section 5 This addition to Section 92-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows: (a) This part shall not apply: (H) The state public charter school commission, 2 established pursuant to section 302D-3, 3 notwithstanding any other law to the contrary." The Commission has responsibility over 34 charter schools, 10,500 students and their families, and their staff and board members. If you refer to the minutes of the recent BOE "listening tour" you will find evidence that the Commission has already not complied with the open meetings law and to exempt them would put the charter school public in jeopardy of hidden agendas.

On behalf of the 10,500 public charter school students, I thank you in advance for supporting their education by holding all parties to the highest levels of transparency and accountability.

Steve Hirakami, Director, Hawaii Academy of Arts & Science PCS



'A'ole pau ka 'ike i ka hālau ho'okahi

Connections Public Charter School

A Community, Business & Education Learning `Ohana

Testimony Strongly Opposing Senate Bill 2780

Public Hearing on February 26, 2016 at 9:40 am

John Thatcher, Connections Public Charter School

Chairperson Tokuda, Vice Chair Dela Cruz and Members of the Senate Committee on Ways and Means:

Thank you for this opportunity to testify regarding my strong opposition to Senate Bill 2780. This bill is both an assault on the autonomy of our charter schools and another attempt to endow the Commission with powers that undermine the public's ability to scrutinize and participate in decisions that may ultimately affect the very existence of charter schools in Hawai'i.

There are several provisions in this bill that are troubling. The State Public Charter School Commission is seeking exemptions from key provisions of the law that ensure fairness in applications of the law and the public right to participate in the formation of public policy. This bill is coalesced with provisions that appear beneficial to the charter schools in an attempt to conceal the actual intentions. The provisions in this bill pertaining to meetings by the governing boards of charter schools are an attempt to micromanage the charter schools, thus undermining their statutorily guaranteed autonomy. In light of the recent Board of Education scrutiny of the Commission and its staff, this bill appears to be retaliation for the recent Board of Education Listening Tour.

I am especially concerned with the Commission's request for an exemption from provisions of the Sunshine Law. The law (§302D-3) says, "Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92." The Commission's current administrative rules (§8-501-4) says "All meetings shall be conducted in accordance with chapter 92, Hawaii Revised Statutes." I question the Commission's need for an exemption to provisions of the law (specifically §92-6). This proposed exemption is especially troubling given the fact that there are at least two active Office of Information Practices (OIP) complaints against the Commission. On May 20, 2015, the Executive Director of the Commission received a letter from the OIP. Their staff attorney wrote, "The Office of Information Practices (OIP) has received an appeal from Mr. John Thatcher, concerning the State Public Charter School Commission (SPCSC) meeting held on May 14, 2015. Specifically, Mr. Thatcher asks whether the SPCSC violated Part I of chapter 92, Hawaii Revised Statutes (Sunshine Law), by considering Connections Public Charter School's (Connections) 'use of enrollment form 515-IOW or [Connections's] request for a written decision by the Hawaii State Public Charter School Commission regarding this matter,' even though the item was not on the agenda for the General Business Meeting held on May 14, 2015."

174 Kamehameha Ave., Hilo, Hawai'i - Phone 1-808-961-3664 FAX 1-808-961-2665

Email: john_thatcher@hawaii.rr.com

On July 7, 2015, I received an email from a staff attorney with the State of Hawaii Office of Information Practices. It said, "The Office of Information Practices (OIP) is in receipt of your e-mails dated June 20, 2015 and July 1, 2015, requesting a status update regarding S APPEAL 15-26. On June 5, 2015, OIP received the Department of the Attorney General's (AG) response, on behalf of the State Public Charter School Commission (Commission), to OIP's Notice of Appeal of Sunshine Law Complaint. This Response Letter dated June 3, 2015 indicates that the AG also provided you with a copy of the letter. Currently, OIP is experiencing a backlog of cases and is striving to complete work on the oldest appeals first. It could therefore be quite some time before work on these appeals are completed. For your information, any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, or to determine the applicability of the Sunshine Law to discussions or decisions of a government board. Hawaii Revised Statutes (HRS) §92-12(c) (2012). The court may order payment of reasonable attorney fees and costs to the prevailing party in such a lawsuit. Where a final action of a board was taken in violation of the open meeting and notice requirements of the Sunshine Law, that action may be voided by the court. HRS §92-11 (2012). A suit to void any final action must be commenced within ninety days of the action."

In his February 8, 2016 testimony before the House Committee on Education, Tom Hutton said, "We request that the provision specifically adding the Commission to the non-exhaustive list of agencies exercising purely adjudicatory functions be revised to limit this authority to matters on which the Commission already has made the decision in a public meeting. The proposal was intended to address a situation in which the Commission was asked to issue a written decision in a matter on which it already had voted multiple times in public meetings and was advised that this adjudicatory function need not necessitate yet another public meeting on the same matter."

Then on February 11, 2016, at the Commission's general meeting, Hutton reported on the Commission Legislative Advocacy for 2016 Legislative Session requesting the following action, "Revise the position on adding the Commission expressly to the non-exhaustive statutory list of agencies that are exempt from on meeting requirements when exercising purely adjudicatory functions, to stipulate that this authority shall be limited to matters on which the Commission already has made the decision in a public meeting. The proposal was intended to address a situation in which the Commission was asked to issue a written decision in a matter on which it already had voted multiple times in public meetings and was advised that this adjudicatory function need not necessitate yet another public meeting on the same question."

Hutton's insinuation that the Commission had previously made a decision concerning the admissions and enrollment policies and practices for Connections Public Charter School is not accurate. No definitive decision was made by the Commission on this matter until a May 14, 2015 meeting attended by seven Commissioners and documented by a letter from Catherine Payne on May 15, 2015. The issue first appeared at the December 11, 2014 general business meeting of the Commission as agenda item III. According to the approved minutes, action on this item was deferred by Commission Chair Payne until the January, 2015 meeting. Connections Public Charter School was not on the agenda for the January 8 or 15, 2015 Commission general meetings. At the March 12, 2015 Commission general meeting conditional approval of Connections' admissions policy and practices was approved, "contingent on the school's use of a modified version of the DOE enrollment form that removes the questions regarding McKinney-Vento eligibility, ethnicity, gender, and language spoken by applicant." Commission staff were directed "to work with the school to ensure that the modified form will be used for its summer admissions cycle and report on this to the Commission no later than its June 2015 general business meeting."

At the June 18, 2015 Commission general meeting Hutton reported, “The approval of the school’s admission policy was contingent on the removal of questions regarding McKinney-Vento eligibility, ethnicity, gender, and language spoken in its admissions application. A check of the school’s website confirmed that the school continues to use the Department of Education’s enrollment form, which contains the questions that the school has been requested to remove, as its admission application. Staff will continue to seek a resolution to this matter prior to the start of the school’s July admissions period.” This report was again presented at the July 9, 2015 general business meeting with the following added, “The school’s director has filed a complaint with the Office of Information Practices over the Commission’s approval in a non-public meeting of its written decision on the school’s contract dispute over this matter. When and how staff follows up may depend upon the likely timing of the resolution of that complaint.” During the August 13, 2015 general business meeting Hutton reported, “The July Executive Director’s Report erroneously reported that the school had continued to use the Department of Education’s enrollment form as its admission application, including questions inappropriate for the applications stage concerning the child’s characteristics. In fact, the school revised its admission application and enrollment form on June 17, 2015. This revised form removes all the questions the school had been directed to remove, except for a question asking whether the applicant is homeless. The school’s director stated that he still was expecting a response to an inquiry from the DOE on asking about an applicant’s homeless status. However, the DOE has notified the director that it will not be weighing in on this matter. The Commission continues to work with the school on this issue.” The school’s admission policy was finally approved at the September 10, 2015 general business meeting through a request by the school to allow for an enrollment preference for educationally disadvantaged students.

There is nothing in this bill that will have a positive impact on charter schools. We do not need changes in the law to collect special fees and charges from students for co-curricular activities. I strongly urge you to defer this bill.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: kaiulani@kalo.org
Subject: *Submitted testimony for SB2780 on Feb 26, 2016 09:40AM*
Date: Wednesday, February 24, 2016 2:52:20 PM

SB2780

Submitted on: 2/24/2016

Testimony for WAM on Feb 26, 2016 09:40AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ka'iulani Pahi'o	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Kanu o ka 'Āina Learning 'Ohana

Serving and perpetuating sustainable Hawaiian communities through Education with Aloha

SENATE COMMITTEE ON WAYS AND MEANS

Date of Hearing: 2-26-2016

Time: 9:40 am

RE SB 2780 S.D.1 RELATING TO CHARTER SCHOOLS: **Oppose**

Aloha Chair Tokuda and Vice Chair Dela Cruz and Members of Committees:

My name is Katie Benioni, Chief Financial Officer of Kanu o ka 'Āina Learning 'Ohana, a non-profit organization whose mission is to serve and perpetuate sustainable Hawaiian communities through Education with Aloha. Our work is done primarily with the 17 Hawaiian Focused Charter Schools in Hawaii.

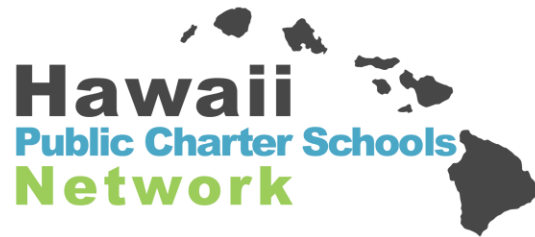
SB2780 raises many concerns regarding public participation and due process as the State Public Charter School Commission seeks to exempt itself from provisions of Chapter 91 and Chapter 92. The public relies on these statutes to provide certain safeguards primarily around provisions for public information and the right of any citizen to petition for adoption, amendment or repeal of rules.

In light of the recent Board of Education charter school listening tour and the subsequent establishment of a BOE investigative committee (Permitted Interaction Group) which will "determine if a special review is warranted and to review legislative proposals relating to charter schools", it would be imprudent to pass any legislation that would undermine the roles, responsibilities and duties of the Board of Education in its oversight of the State Public Charter School Commission.

I HUMBLY REQUEST THAT THIS BILL NOT BE PASSED.

Mahalo,

Katie Benioni



February 25, 2016

To: Honorable Jill N. Tokuda, Chair
Honorable Donovan M. Dela Cruz, Vice Chair
Senate Committee on Ways and Means

From: Jeannine Souki, Executive Director
Hawaii Public Charter Schools Network

Re: **SB 2780 SD1 – RELATING TO CHARTER SCHOOLS – COMMENT**
Conference Room 211 – Hawaii State Capitol – Feb. 26, 2016, 9:40 A.M.

On behalf of the Hawaii Public Charter School Network (HPCSN), we are writing to express concerns on SB 2780 SD1, Relating to Charter Schools and ask that the bill be deferred to allow collaboration between the Commission and charter schools to work out suggested policy changes that may be revisited the next session. However, should this legislation advance we are respectfully submitting suggested changes for your committee's consideration.

Act 130, Session Laws of Hawaii 2011, established a task force to address issues on charter school governance, accountability, and authority. In 2012, the legislature repealed previous charter school laws and adopted recommendations made by the Charter School Governance, Accountability, and Authority Task Force which provided a new Charter School Commission significant oversight authority and responsibility to ensure compliance of charter schools with applicable state and federal laws and also gave Charter School Governing Boards significant powers and duties to oversee the management and operations of charter schools. This effort was intended to establish clear roles and responsibilities for the charter schools sector and to balance accountability with providing innovative learning opportunities and creative educational approaches to improve the education of students.

In Section 4, the Commission is seeking an amendment to HRS Section 302D-18, to be exempted from the contested case procedures under HRS Chapter 91. We understand the purpose of this provision is to seek clarity on whether disputes on revocation or non-renewal of school contracts should be subject to contested case proceedings. HPCSN appreciates the need to have clarity in this process and further recommends that the request for exemption be rejected instead to allow further due process for the affected parties. Charter schools should be allowed to pursue contested case procedures in matters relating to disputes pertaining to a revocation or non-renewal of a charter school contracts. We further recommend that both the Charter School Commission and the affected charter

school should have full access to legal representation by the Attorney General in disputes on the revocation or non-renewal of their contracts.

In Section 7 of this bill, the Commission seeks to gain exemptions from HRS Chapter 92, from the Sunshine Law when engaged in adjudicatory functions. HPCSN respectfully disagrees with this provision as HRS Section 92-4, -5, allows the Commission to discuss personal or confidential matters in executive sessions. We respectfully request that this section be stricken from the bill.

HPCSN works to support public charter schools in Hawaii and to be a voice for children and families that seek choice in an independent public school setting.

Thank you for consideration of our comments. We appreciate the opportunity to provide testimony on behalf of HPCSN.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: kauanoek@gmail.com
Subject: *Submitted testimony for SB2780 on Feb 26, 2016 09:40AM*
Date: Thursday, February 25, 2016 8:56:31 AM

SB2780

Submitted on: 2/25/2016

Testimony for WAM on Feb 26, 2016 09:40AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kauanoek Kamana	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: keomailanicas@hawaiiantel.net
Subject: Submitted testimony for SB2780 on Feb 26, 2016 09:40AM
Date: Wednesday, February 24, 2016 8:47:22 PM

SB2780

Submitted on: 2/24/2016

Testimony for WAM on Feb 26, 2016 09:40AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Keomailani Case	Individual	Oppose	No

Comments: This bill raises serious due process and procedural concerns. I oppose this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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