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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.



KAMEHAMEHA SCHOOLS

Senate Committee on Ways and Means

Time: 9:40 a.m.

Date: February 26, 2016

Where: State Capitol Room 11

TESTIMONY

By Ka'ano'i Walk

Kamehameha Schools

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

RE: **SB 2780, SD 1, Relating to Charter Schools**

E ka Luna Ho'omalua Tokuda, ka Hope Luna Ho'omalua Dela Cruz a me nā Lālā o kēia Kōmike o ka 'Aha Kenekoa, aloha! My name is Ka'ano'i Walk and I serve as the Senior Policy Analyst of the Kūamahi Community Education Group of Kamehameha Schools. Senate Bill 2780, SD 1, relating to charter schools clarifies that revocation and nonrenewal proceedings shall not be subject to chapter 91, Hawai'i Revised Statutes and exempts certain adjudicatory functions of the state public charter school commission for opening meeting requirements under certain circumstances.

We are writing to respectfully **oppose** this bill in its current form.

Act 130, Session Laws of Hawaii 2011, established a Charter School Governance, Accountability, and Authority Task Force to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of Hawai'i's charter school system. The following year, in Act 130, Session Laws of Hawai'i 2012, the State legislature established a new Hawai'i Revised Statutes chapter, 302D, governing charter schools based on the recommendations of the Task Force. The new Chapter vested significant oversight authority and responsibility in a new Charter School Commission.

Kamehameha Schools advocates for and supports the achievement of Hawai'i's Native Hawaiian public school students. As such, we have been a collaborator with the Hawai'i public charter schools for over a decade. Through our work with Hawaiian-focused public charter schools, we hope to significantly impact more children and their families through education. We believe that Hawaiian-focused charter schools provide quality educational choices for all families and ultimately enhance both academic achievement and engagement for students. Without more time to adequately evaluate the impact of these provisions at the school level, we want to express our concern that they may undermine the principles of transparency and accountability.

Founded in 1887, Kamehameha Schools is a statewide educational system supported by a trust endowed by Princess Bernice Pauahi Bishop, whose mission is to improve the capability and well-being of Native Hawaiian learners. We believe that by continuing to engage in dialog around these charter school policies and proposals, we can contribute in a positive and meaningful way. Mahalo for your consideration.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: keiki@hawaii.edu
Subject: *Submitted testimony for SB2780 on Feb 26, 2016 09:40AM*
Date: Thursday, February 25, 2016 10:37:53 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
Keiki Kawaiaaea	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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