

SB2780

Measure Title: RELATING TO CHARTER SCHOOLS.

Report Title: Charter Schools; Rules; Fees

Description: Authorizes the charter school commission to adopt interim rules. Establishes requirements for meeting minutes. Authorizes charter schools to assess fees and charges for co-curricular activities.

Companion:

Package: None

Current Referral: EDU, WAM

Introducer(s): KIDANI, CHUN OAKLAND, KEITH-AGARAN, SHIMABUKURO

DAVID Y. IGE
GOVERNOR



CATHERINE PAYNE
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: (808) 586-3775 Fax: (808) 586-3776

FOR: SB 2780 Relating to Charter Schools
DATE: Monday, February 1, 2016
TIME: 1:15 PM
COMMITTEE(S): Senate Committee on Education
ROOM: Conference Room 229
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of SB2780

Chair Kidani, Vice Chair Harimoto, and members of the Committee:

The State Public Charter School Commission appreciates the opportunity to submit this testimony in support of Senate Bill 2780, "Relating to Charter Schools," which makes clarifying and conforming amendments to the statutory provisions governing charter schools. We are grateful to Chair Kidani, and Senators Chun Oakland, Keith-Agaran, and Shimabukuro for their sponsorship of the bill.

The proposed measure:

- Allows the Commission to issue interim administrative rules by commission directives pending formal rulemaking process pursuant to Chapter 91, and would limit the interim rules for no more than eighteen months to provide for greater clarity of operations prior to the formal adoption of administrative rules;
- Prohibits 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 application;

- Allows charter school governing boards some additional flexibility regarding the posting of meeting agendas, minutes, and membership while providing some minimal guidance regarding the quality of such disclosures to better ensure greater public transparency;
- Provides the same protections to a nonprofit organization that serves as a charter school's governing board as are afforded to other governing boards;
- Specifies that the procedural requirements for Commission hearings are those set forth in the charter school statute, not other requirements set forth in Chapter 91, Hawaii Revised Statutes;
- Expressly allows charter schools to assess special fees and charges for co-curricular activities, to parallel the department of education's statute;
- Allows conversion charter schools to apply enrollment preferences, if any, to those enrollment seats remaining available after all students from within the school's attendance district have been admitted; and
- Expressly adds the Commission to the list of state agencies that are excluded from open meeting requirements of sections 91-8 and 91-9, HRS, when exercise purely adjudicatory functions.

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

Thank you for the opportunity to provide this testimony.

From: mailinglist@capitol.hawaii.gov
To: [EDU Testimony](#)
Cc:
Subject: Submitted testimony for SB2780 on Feb 1, 2016 13:15PM
Date: Monday, February 01, 2016 9:52:46 AM
Attachments: [02.01.2016_EDU_SB2780_\(Charter_Schools-Interim_Rules\).pdf](#)

SB2780

Submitted on: 2/1/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

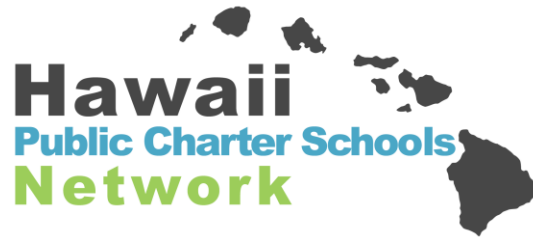
Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Souki	Hawaii Public Charter Schools Network	Comments Only	Yes

Comments: Testimony attached (pdf.) February 1, 2016 To: Honorable Michelle Kidani, Chair Honorable Breen Harimoto, Vice Chair Senate Committee on Education From: Jeannine Souki, Executive Director Hawaii Public Charter Schools Network Re: SB 2780 – RELATING TO CHARTER SCHOOLS – COMMENT Conference Room 229 – Hawaii State Capitol – Feb. 1, 2016, 1:15 P.M. On behalf of the Hawaii Public Charter School Network (HPCSN), I am submitting comments on SB 2780, Relating to Charter Schools, which seeks to allow the Charter School Commission to promulgate interim rules that shall be exempt from the public notice, public hearing and gubernatorial requirements of HRS chapter 91 (“Administrative Rules”) and allow rules to be effective up to 18 months. 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. Under HRS 302D, authorizers are required to “...carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.” SB 2780 would provide the adoption of rules without notice and public input, which impedes the public rule making process that is intended to ensure that the public is informed of proposed rules before they take effect; the public can comment on the proposed rules and provide additional data to the agency; the public can access the rulemaking record and analyze the data and analysis behind a proposed rule; the agency analyzes and responds to the public's comments; the agency creates a permanent record of its

analysis and the process; and the agency's actions can be reviewed by a judge or others to ensure the correct process was followed. HPCSN has concerns that SB 2780 is inconsistent with the spirit of Chapter 302D and will hinder public confidence. The Hawaii Board of Education (BOE), which has oversight of public charter school authorizers, directed its staff to draft administrative rules for multiple charter school authorizers, pursuant to HRS 302D-4, during its January 19, 2016, General Business Meeting. The BOE's Student Achievement Committee will be meeting on February 2, 2016, to take Committee action on this draft. The promulgation of interim rules as offered in SB2780 would significantly impede with the BOE's administrative rulemaking process. As such, HPCSN urges members of the committee to consider the potential impacts this bill would have on the state's administrative rules and open meetings laws. 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.

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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February 1, 2016

To: Honorable Michelle Kidani, Chair
Honorable Breen Harimoto, Vice Chair
Senate Committee on Education

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

**Re: SB 2780 – RELATING TO CHARTER SCHOOLS – COMMENT
Conference Room 229 – Hawaii State Capitol – Feb. 1, 2016, 1:15 P.M.**

On behalf of the Hawaii Public Charter School Network (HPCSN), I am submitting comments on SB 2780, Relating to Charter Schools, which seeks to allow the Charter School Commission to promulgate interim rules that shall be exempt from the public notice, public hearing and gubernatorial requirements of HRS chapter 91 (“Administrative Rules”) and allow rules to be effective up to 18 months.

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.

Under HRS 302D, authorizers are required to “...carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.”

SB 2780 would provide the adoption of rules without notice and public input, which impedes the public rule making process that is intended to ensure that the public is informed of proposed rules before they take effect; the public can comment on the proposed rules and provide additional data to the agency; the public can access the rulemaking record and analyze the data and analysis behind a proposed rule; the agency analyzes and responds to the public's comments; the agency creates a permanent record of its analysis and the

process; and the agency's actions can be reviewed by a judge or others to ensure the correct process was followed.

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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.



SB2780
RELATING TO CHARTER SCHOOLS
Senate Committee on Education

February 1, 2016

1:15 p.m.

Room 229

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the OHA Board of Trustees a position of **COMMENT** on SB2780. Among other provisions, this measure exempts the Hawai'i State Public Charter School Commission ("Commission") from Chapter 91 rulemaking requirements for "interim" rules; exempts the Commission from Chapter 91 contested case hearing requirements in charter school revocation and nonrenewal proceedings; and exempts the Commission from Chapter 92 open meeting requirements when exercising its adjudicatory functions. Given the Commission's potential to impact the education of our public charter school students, including those enrolled in Hawaiian-focused or Hawaiian language charter schools, these identified statutory amendments raise serious due process and procedural concerns.

Section 1 of this measure authorizes the Commission to issue interim rules by Commission "directives" exempt from the public notice, hearing, and gubernatorial approval requirements of Chapter 91, which may be effective for an 18-month period. Given the lack of statutory standards or any specific description of what such rulemaking may entail, such a provision may eliminate critical opportunities for public oversight or input in policies affecting our state's public charter schools. In contrast, OHA notes that expedited rulemaking is already available to the Commission under Hawai'i Revised Statutes ("HRS") Section 91-3(b), which allows an agency to adopt rules without the public hearing and notice requirements of Chapter 91 only when it finds, in writing, that an imminent peril to public health, safety, or morals exists, which would be effective for a maximum period of only four months.

OHA further notes that the 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 Hawai'i Revised Statutes Section 302D-11(c). Accordingly, the broad authorities granted under Section 1, which exempt the

Commission from public and gubernatorial oversight in its rulemaking over public charter schools, may also undermine the ongoing work of the BOE in reviewing and guiding the Commission's activities.

Section 5 of this measure amends HRS Section 302D-18 in the charter school law by exempting proceedings related to charter revocation and nonrenewal from contested case procedures 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.

Finally, Section 8 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 contested case hearing exemptions of Section 5, 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 open meeting requirements, which OHA notes already contain exceptions for executive sessions and discussions of personal or confidential matters. See HRS §§ 92-4, -5.

OHA therefore urges the Committee to **DELETE SECTIONS 1, 5, AND 8** from SB2780. Mahalo nui for the opportunity to testify on this measure.



KAMEHAMEHA SCHOOLS

Senate Committee on Education

Time: 1:15 p.m.

Date: February 1, 2016

Where: State Capitol Room 229

TESTIMONY

By Ka'ano'i Walk

Kamehameha Schools

To: Chair Kidani, Vice Chair Harimoto and Members of the Education Committee

RE: **SB 2780 Relating to Charter Schools**

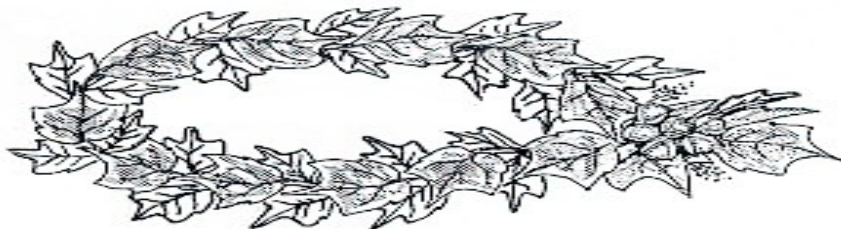
E ka Luna Ho'omalua Kidani, ka Hope Luna Ho'omalua Harimoto a me nā Lālā o ke Kōmike Ho'ona'auao o ka 'Aha Kenekoa, aloha! My name is Ka'ano'i Walk and I serve as the Senior Policy Analyst of the Community Education Division of Kamehameha Schools. Senate Bill 2780 relating to charter schools authorizes the charter school commission to adopt interim rules without providing notice and establishes requirements for meeting minutes. We are writing to respectfully **oppose** this bill in its current form.

Act 130, Session Laws of Hawai'i 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.

This bill now seeks to expand that authority to adopting rules without notice. It would allow the Hawai'i Charter School Commission to issue interim rules by Commission directives that "shall be exempt from the public notice, public hearing and gubernatorial approval requirements." We believe that rules adopted in such a manner, even if limited in duration, will tend to undermine public confidence and hinder the objectives of transparency, accountability and open government.

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 our families and ultimately enhance both academic achievement and engagement for students.

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 nui for your consideration.



'A'ole pau ka 'ike i ka hula ka 'okali

Connections Public Charter School

A Community, Business & Education Learning `Ohana

Testimony Strongly Opposing Senate Bill 2780

Public Hearing on February 1, 2016 at 1:15 pm

John Thatcher, Connections Public Charter School

Chairperson Kidani, Vice-Chairperson Harimoto and Members of the Senate Committee on Education:

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 our 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 especially 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 our 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 our charter schools, thus undermining our 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.

It is unclear why the Commission is seeking the ability to promulgate interim administrative rules. The current statute (§91-3(2)(b)) gives the Commission the authority to enact emergency administrative rules for a period of 120 days. In my testimony regarding the current Commission rules I said, "Proposed rule §8-501-4 infringes on freedom of speech and the equal protection clauses of the U.S. Constitution. The Hawai'i State Legislature declared 'it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and action of governmental agencies - shall be conducted as openly as possible.' The Sunshine Law is designed to allow citizens to have input into decision-making. Hawai'i Intermediate Court of Appeals added further clarification when it wrote, 'the Sunshine Law is intended to foster transparency in the formation and conduct of public policy by opening up the governmental processes to public scrutiny and participation,' and Hawai'i's courts have said repeatedly that the Sunshine Law is to be 'liberally construed,' and that doubts are to be resolved in favor of greater openness." On October 9, 2014, the language contained in the proposed rule §8-501-4 was inserted into the bylaws of the Commission. The Commission conducted meetings in accordance with this rule despite the fact that it had not been approved. I question the Commission's need for a rule-making process exempt from public notice, public hearing, and gubernatorial approval.

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

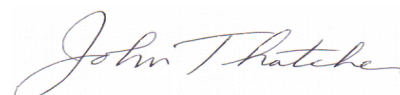
Email: cpcs@hawaii.rr.com

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.” Again, 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.”

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.”

At the December 10, 2015 Commission general meeting another charter school principal, Steve Hirakami, questioned the chairperson of the Commission concerning a letter he had received regarding the distribution of collective bargaining teacher bonuses and his request that this issue be placed on the agenda for the meeting. The letter was signed by Chairperson Catherine Payne and Executive Director Tom Hutton. Chairperson Payne was asked if she had acted on behalf of the Commission in this correspondence. She stated that she had acted as the Chair of the Commission and that the Commissioners had seen a copy of the letter (despite the fact that this issue was never addressed at a Commission meeting). Mr. Hirakami filed another complaint with the OIP for violations of the Sunshine Law. Is the Commission seeking an exemption from the Sunshine Law to avoid future actions of this sort?

There is nothing in this bill that will have a positive impact our 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 kill this bill and send a clear message to the Hawaii State Public Charter School Commission and its Executive Director.



Testimony SB2780
Senate Education Committee
February 1, 2016 Conference Room 229 1:15pm
Oppose

Dear Chair Kidani 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. The proposed change to 302 D-3.5 states: “and provided further that the commission may issue interim rules by commission directives that shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The interim rules shall not be effective for more than eighteen months.” This is giving the Commission too much leeway in making “interim” rules which in 18 months could spell disaster for the process of renegotiating contracts or expose schools to closure without due process.

The change 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. 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.

The change in 302 D-12 states: “(5) Post the written minutes from public meetings: (A) At a publicly accessible area in the charter school's office so the minutes are available for review during regular business hours; and (B) On the charter school's internet website, within sixty days of the public meeting or no less than five days prior to the next public meeting, whichever is sooner.” A lot of board meetings start with a review and acceptance of the past meeting. Having the requirement to post five days prior to a meeting would mean the board would have to approve the minutes of the meeting at the same meeting or conduct a review of the minutes between meetings.

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. This eliminates contested cases hearings and denies the charter school due process.

Finally, the 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



COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

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TESTIMONY IN OPPOSITION TO SB 2780 RELATING TO CHARTER SCHOOLS

COMMITTEE ON EDUCATION

Monday, February 1, 2016

Chair Kidani, Vice Chair Harimoto and members of the Education Committee, on behalf of the Council for Native Hawaiian Advancement (CNHA), I offer testimony in opposition to SB 2780 relating to charter schools. CNHA opposes this bill in its current form, which would allow the charter school commission to adopt interim rules without providing notice.

The Bill appears to be arbitrary and inconsistent with Chapter 91. Specifically, Chapter 91-3B already allows for emergency rules for a period of four months. Allowing interim administrative rules that exempt the commission from public notice, public hearing and gubernatorial approval requirements of chapter 91 is excessive and lacks transparency. Moreover, interim administrative rules, exempts the commission from contested case proceedings when acting in adjudicatory function, which raises due process concerns.

Founded in 2001, CNHA is a Native Hawaii non-profit membership organization with more than 150 voting members. CNHA's mission is to enhance the well being of Hawaii through the cultural, political, economic, and community development of Native Hawaiians. We convene an annual education caucus and work throughout the year with many educators and leaders from our local charter schools.

After review of this bill, we find the burdens of SB 2780 far outweigh the benefits.

Mahalo for the opportunity to provide testimony on this measure.

Michelle Kauhane
President & CEO

From: mailinglist@capitol.hawaii.gov
To: [EDU Testimony](#)
Cc:
Subject: *Submitted testimony for SB2780 on Feb 1, 2016 13:15PM*
Date: Friday, January 29, 2016 10:55:42 AM

SB2780

Submitted on: 1/29/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Usha Kilpatrick Kotner	Individual	Support	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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Subject: Submitted testimony for SB2780 on Feb 1, 2016 13:15PM
Date: Friday, January 29, 2016 4:14:31 PM

SB2780

Submitted on: 1/29/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Gene Zarro	Individual	Oppose	No

Comments: I strongly oppose SB2780

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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Subject: *Submitted testimony for SB2780 on Feb 1, 2016 13:15PM*
Date: Friday, January 29, 2016 4:42:53 PM

SB2780

Submitted on: 1/29/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

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

Comments:

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**Testimony Strongly Opposing Senate Bill 2780
Companion HB 2205
Public Hearing on February 1, 2016 at 1:15 pm
Submitted by Susie Osborne on behalf of:
Kua o ka La Public Charter School**

Aloha Chairperson Kidani, Vice-Chairperson Harimoto and Members of the Senate Committee on Education:

Thank you for this opportunity to testify regarding my strong opposition to Senate Bill 2780. It is with great concern that I read this proposed bill and strongly urge you to not adopt the proposed changes to SB2780.

Section 1 seeks to authorize the Charter School Commission to issue interim rules at Commission 'directive' with an 18 month cap. This clearly is not in alignment with the current rule making pertaining to emergency rule making, which requires imminent peril to health and safety that has a four month cap. The proposed language is not clear and does not provide an objective standard to limit the commission.

Section 5 seeks exemption to the Commission from Chapter 91 in charter revocation and charter nonrenewal proceedings. This effectively strips our schools of our due process protections, which are addressed through the contested case requirements. We clearly need these protections, which safeguard our students, parents, administrators, our supporting nonprofits, funders and the State itself.

I am sure you are well aware of the recent BOE listening tour conducted on three of Hawaii Islands and hopefully you have read the report resulting from this tour. Grave areas of concern have been brought forward and the establishment of a permitted interactive group (PIG) being considered to investigate these concerns by conducting a special review of the Commission.

This proposed bill is a perfect example of the Charter Commissions undermining processes, which ensure fairness in the application of the law including the public right to participate in the formation of public policy.

Is the Hawai'i public school system currently able to collect special fees for co-curricular activities? Does this require a law? The potential damage proposed in this bill must not be masked by this seemingly small benefit which does not seem to need a law change.

We implore you to please, at this critical juncture of Charter Schools, stop, hear the voices of Charters and allow the important investigation of the Board of Education to occur before enacting such undermining laws that will strip us of our few avenues of protection that currently exist.

With sincere gratitude for your service to Hawaii and respectfully submitted.

TESTIMONY IN OPPOSITION OF SENATE BILL 2780

(SB2780)

Chairperson Kidani, Vice-Chairperson Harimoto and members of the Senate Committee on Education:

Mahalo nui for the opportunity to testify in opposition to SB2780. As an employee of a charter school and one that believes all of our childrens' education is dependent upon all of us making wise and purposeful decisions concerning their future. I also know that you all are also concerned for the future of our children and that equity is imperative for all of our public school children rather in charter or department schools.

Several provisions to this bill will negatively impact how our charter schools are governed, violate our due process rights, and circumvent the entity charged with oversight of the Charter School Commission.

SECTION 1 ...authorizes "commission may issue interim rules by commission directives that shall exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The interim rules shall not be effective for more than eighteen months."

As a former governing board chair for a charter school, we were held to and still are held to the conditions of the "Sunshine Law." Even if for eighteen (18) months, what would be the purpose of an exemption? It is hoped that the "sunshine law" has not already been violated.

Section 5..."provided that the proceeding shall not be subject to chapter 91;"

Would this exemption prevent our "due process rights" as charter school students, parents, administrators, employees, 501(c)-3 non-profit arms of schools, private funders? Does the State itself not need due process protection?

The Board of Education oversees the commission, at present they (BOE) has approved a "permitted interactive group" (PIG) to investigate concerns raised by the BOE Listening Tour, and may further determine if a special review of the commission is needed. To allow this bill to move forward is premature.

Mahalo again for allowing me the opportunity to provide testimony.

Wendy M. Waipa

Wendy M. Waipa

Hilo, HI

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

January 31, 2016

COMMITTEE ON EDUCATION

Hearing: Monday, February 1, 2016 1:15 p.m.
Conference Rm 229 State Capitol, Hawaii

TESTIMONY ON SB 2780

Authorizes the charter school commission to adopt interim rules. Establishes requirements for meeting minutes. Authorizes charter schools to assess fees and charges for co-curricular activities.

I, an interested and concerned citizen, and Governing Board Member of Kanu O Ka 'Aina New Century Public Charter School testify to **OPPOSE SB2780**.

SECTION 1. OPPOSE amendments to 302D-3.5

We are part of a governmental institution built “of the people, for the people, and by the people” which specifies laws and rules designed and promulgated to protect the peoples’ rights. **This suggested amendment to 302D-3.5 infringes on my rights and that of all other charter school governing board members, staff, parents, and students to participate in the rule making process.** The Charter School Commission under the direction of its Executive Director and staff have no compelling reason to request this amendment – 1) Does not further the statutory mission of the commission, 2) Does not enhance the performance of the Commission staff, 3) Does not enhance the capabilities of the contracted charter schools to lift their students, 4) Was not identified as a concern in the Executive Director’s Annual Report to the Legislature.

SECTION 3. OPPOSE amendments to 302D-12

I, along with other governing board members, will have to review other agency procedures, formats and timelines before agreeing to changing this law.

SECTION 5. 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.)

Further Comment:

The amendments proposed in this bill combine unrelated issues. It should be opposed and recommended for resubmission next legislative session.

We have identical kuleana – to SERVE and REPRESENT.

I appreciate this opportunity to participate!

Thank You, M Kapuniai,
Waimea, Moku O Keawe

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

TESTIMONY STRONGLY OPPOSING SB2780

THANK YOU FOR THE OPPORTUNIT TO TESTIFY.

Charter Schools already have the right to change fees. This is a diversion to make this bill appear charter friendly that undermines the true content to dilute the due process rights of Governing Boards and circumvents the current BOE Progressive Integrative Group Investigation and Administrative Rule Making process that is formally underway as of January 19, 2016, as well as the current complaints against the Commission filed with the Office of Information Practices regarding sunshine law.

[\$302D-11] Oversight of public charter school authorizers. (c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the board. In reviewing or evaluating the performance of authorizers the board shall apply nationally recognized principles and standards for quality charter authorizing.

Excerpt of current contract provision: "8.9. Fees. The School may charge reasonable fees, to the extent permitted by law, for summer school programs, after school programs, student activities, and any other service, materials, or equipment for which other state public schools may charge a fee."

The BOE conducted a Charter School Listening Tour in response to numerous complaints in December 2015. Despite the inconvenient holiday timing approximately 28 of 35 or 80% of the school communities took time and testified against the commission. That is a group representing approximately 8338 families.

The conclusion presented to the BOE on January 19, 2016 is as follows: "The concerns that have been expressed during this listening tour are of such significant breadth and depth that more formal investigation by the Board is warranted. I recommend the establishment of an investigative committee (a Permitted Interaction Group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(1)) to determine if a special review is warranted and to review legislative proposals relating to charter schools (as described in my memorandum relating to "Board Action on designation of Board members to an investigative committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92- 2.5(b)), concerning Board responsibilities under Hawaii Revised Statutes Section 302D-11, Oversight of public charter school authorizers and review of proposed charter school legislation," dated January 19, 2016).

I HUMBLY REQUEST THAT THIS BILL NOT BE PASSED OR SCHEDULED FOR ANY FURTHER HEARINGS.

TAFFI WISE

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SB2780

Submitted on: 1/31/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Keiki Kawaiaaea	Individual	Oppose	No

Comments:

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Senator Michelle N. Kidani, Chair
Senator Breene Harimoto, Vice Chair

Senate Committee on Education

Senate Bill 2780
Relating to Charter Schools

Monday, February 1, 2016; 1:15 PM
Conference Room 229, State Capitol

Testimony

Chair Kidani, Vice Chair Harimoto and members of the Committee, my name is Jim Williams. I am a member of the Board of Education and chair of the Board's special committee (permitted interaction group) currently investigating whether to recommend that the Board conduct a "special review" of the performance of the Charter School Commission. Since the Board has not yet taken any positions on proposed legislation, including SB 2780, I am testifying as an individual. Thank you for this opportunity to present this testimony in opposition to SB 2780.

Recently I joined several of my colleagues on the Board in conducting a "listening tour" to hear the concerns of charter schools regarding the Charter School Commission. My report to the Board on the listening tour concluded that "the concerns that have been expressed during this listening tour are of such significant breadth and depth that more formal investigation by the Board is warranted." I will ask the Board's staff to provide a copy of the full report to you and members of this Committee.

Based on feedback received, on my understanding of HRS 302D, and on my own knowledge of charter schools, I believe the public interest and the interests of charter school students would be served best by the Committee holding this bill. Below are brief comments on pertinent sections of the bill:

Section 1, permitting interim rules for 18 months. The Commission has had sufficient time to enact rules. At a time when charter schools have expressed significant concerns about the decision-making processes of the Commission, it would not be prudent to grant additional unilateral powers to the Commission.

Section 2, regarding technical support to applicants. While I do not object to this provision, I do not believe it is necessary, and it should not be used as a justification for keeping this bill alive.

Section 3, placing additional requirements on charter schools for posting of documents. The current requirements are sufficient to protect the interests of charter school stakeholders and the public. In my view, it is unnecessary and unfair to impose additional requirements. The Commission should focus its efforts on supporting the requirements already in the law.

Section 4, protections for governing boards on applicants. Applicants are not government entities until their applications are approved by the Commission. This proposal seems contrary to wise public policy.

Page 2

Testimony – SB 2780

Williams

Section 5, exempting Commission decisions regarding revocation and non-renewal from Chapter 91. Revocation and non-renewal 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. I urge this Committee to refrain from approving this proposal in any form.

Section 6, permitting charter schools to charge certain fees. This proposal is unnecessary and should not be used as a reason to keep this bill alive.

Section 7, relating to enrollment in conversion charter schools. This proposal is unnecessary, as the Commission already has the authority to deal with this issue, if it would properly enact appropriate rules for the purpose.

Section 8, specifically including the Commission as a board that exercises adjudicatory functions. This is a particularly objectionable proposal. It 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.

In summary, key provisions of this bill are highly objectionable and others are unnecessary. I respectfully recommend that the Committee hold SB 2780.

Thank you for considering my individual testimony.

Jim Williams
60 N. Beretania St.
Honolulu, Hawaii 96817

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SB2780

Submitted on: 1/31/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Amy Kalili	Individual	Oppose	No

Comments:

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SB2780

Submitted on: 1/30/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Fraser	Individual	Oppose	No

Comments: I am against this proposal and am concern about erosion of due process protections.

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SB2780

Submitted on: 1/31/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Charlene Hoe	Individual	Oppose	No

Comments: Enabling genuine community-based and innovative learning environments in our state (CS) was and is the vision for charter schools in Hawai'i. This bill would further restrict CS Governing Boards and their extended communities - staff, families, students, and community partners - from realizing this vision. The Commission, legislature, and all who care about contributing to educating for this century for all learners need to ensure the continuance of opportunities for all to have input into educational processes. This bill would significantly limit those opportunities for the learner community. I urge you to stop this bill.

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SB2780

Submitted on: 1/31/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. William H. Wilson	Individual	Oppose	No

Comments: Aloha Senators, I serve on the board of Nawahi Iki Hawaiian language Charter School. There are distinctive federal and state laws relative to use of Hawaiian in education of which the Commission staff and Commission itself lack sufficient knowledge to create rules on their own without public input. I strongly oppose SB2780.

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SB2780

Submitted on: 1/31/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

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

Comments: Ke kula o Nawahi strongly opposes this bill. This is not appropriate for our distinctive needs in revitalizing Hawaiian medium education in the state of Hawaii.

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SB2780

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Submitted By	Organization	Testifier Position	Present at Hearing
Nako?olani Warrington	Individual	Oppose	No

Comments:

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SB2780

Submitted on: 1/30/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Namaka	Individual	Oppose	No

Comments: Aloha Senator Michelle N. Kidani, Chair and Senator Breene Harimoto, Vice Chair I oppose SB2780. I do not support Commission exemptions from public notice and public hearings in Section 1 and Commission exemption to chapter 91 in Section 5. Mahalo

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SB2780

Submitted on: 1/31/2016

Testimony for EDU on Feb 1, 2016 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Trevor Atkins	Individual	Oppose	No

Comments: While good intentioned, this bill would deprive the rights of charter schools in question to have contested case hearings. That is not fair or legal. Don't give the Charter School Commission such absolute power.

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