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

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FOR: SB 814 Relating to Education  
DATE: February 8, 2021  
TIME: 3:00 P.M.  
COMMITTEE: Committee on Education  
ROOM: Conference Room 229  
FROM: Yvonne Lau, Interim Executive Director  
State Public Charter School Commission

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

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony and provides **COMMENTS on SB 814** which clarifies the process for applicants to submit a letter of intent to apply to open and operate a charter school. Provides for penalties for authorizers who fail to timely comply with board decisions.

With respect to the proposed changes to the statute in Section 1, the Commission is recommending that Section 302D-13, HRS, be amended with the proposed changes found on pages 3 through 5 of this testimony (proposed changes are highlighted). The Commission believes this will address the concerns raised in the proposed bill and simplifies the charter school application process altogether.

With respect to the proposed changes to the statute in Section 2, page 10, lines 20-21, page 11, lines 1-8, HRS §302D-11 and Hawaii Administrative Rules Title 8, Subtitle 5, Chapter 515, already provides the Board of Education with a mechanism to address any performance deficiencies with authorizers it oversees, including the Commission. Additionally, the Commission has complied with the directives of the Board of Education and believes the proposed changes are unnecessary to the Board’s exercise of their oversight authority.

With respect to the proposed change to Section 2, page 11, lines 14-18, appears to refer to an applicant that is denied a charter contract or an existing public charter school who has had their charter contract revoked by their authorizer. It appears to allow the school that is revoked to

move over to another authorizer should that other authorizer agree. These proposed changes would alter the existing process and procedure articulated in Hawaii Administrative Rules §8-517 that outlines the Hawaii Board of Education's process for a charter contract to be transferred to another authorizer. It is unclear what the denied applicant would be able to do and what the other authorizer would do, as the denied applicant would still be required to apply to be a public charter school, and as such makes this provision unnecessary and duplicative.

The Commission looks forward to collaborating with the committee, other interested stakeholders, and public charter schools in moving this legislation forward.

Thank you for the opportunity to provide this testimony.

## Proposed Amendments to Section 302D-13, HRS

**§302D-13 Start-up and conversion charter schools; establishment.** (a) New start-up and conversion charter schools may be established pursuant to this section.

(b) Any community, department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may ~~submit a letter of intent to an authorizer to form a charter school and~~ establish an applicant governing board ~~[. An applicant governing board may]~~ and develop a charter application pursuant to this section; provided that:

(1) An applicant governing board established by a community may develop a charter application for a start-up charter school;

(2) An applicant governing board established by a department school or a school community council may develop a charter application for a conversion charter school;

(3) An applicant governing board established by a group of teachers or a group of administrators may develop a charter application for a start-up or conversion charter school; and

(4) A nonprofit organization may:

(A) Establish an applicant governing board that is separate from the nonprofit organization and develop a charter application for a start-up or conversion charter school; or

(B) Establish an applicant governing board that shall be the board of directors of the nonprofit organization and may develop a charter application for a conversion charter school; provided that any nonprofit organization that seeks to manage and operate a conversion charter school shall:

(i) Submit to the authorizer at the time of the charter application bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;

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

(iii) Not interfere in the operations of the department school to be converted until otherwise authorized by the authorizer in consultation with the department; and

(iv) Have the same protections that are afforded to all other governing boards in its role as the conversion charter school governing board.

(c) The charter school application process and schedule shall be determined by the authorizer, and shall provide for and include, at a minimum, the following elements:

(1) The issuance and publication of a request for proposals by the authorizer on the authorizer's internet website that, at a minimum:

(A) Solicits charter applications and presents the authorizer's strategic vision for chartering;

(B) Includes or directs applicant governing boards to the performance framework developed by the authorizer in accordance with section 302D-16;

(C) Includes criteria that will guide the authorizer's decision to approve or deny a charter application;

(D) States clear, appropriately detailed questions and provides guidelines concerning the format and content essential for applicant governing boards to demonstrate the capacities necessary to establish and operate a successful charter school; and

(E) Requires charter applications to provide or describe all essential elements, as determined by the authorizer, of proposed school plans;

~~[(2) The submission of a letter of intent to open and operate a start-up charter school or to convert a department school to a conversion charter school;]~~

~~[(3)]~~ (2) The [timely] submission of a [completed] charter application to the authorizer; provided that a charter application for a conversion charter school shall include certification and documentation that the charter application was approved by a majority of the votes cast by existing administrative, support, and teacher personnel, and parents of students at the existing department school; provided that:

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

(B) The balance of stakeholders represented in the vote and the extent of support received in support of the conversion shall be key factors, along with the applicant's proposed plans, to be considered by the authorizer when deciding whether to award a charter; and

(C) A breakdown of the number of administrative, support, and teaching personnel, and parents of students who constitute the existing department school and the number who actually participated in the vote shall be provided to the authorizer;

~~[(4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the applicant governing board that the charter application is complete;]~~

~~[(5)]~~(3) Upon receipt of a [completed] charter application, the review and evaluation of the charter application by qualified persons including but not limited to:

(A) An in-person interview with representatives from the applicant governing board; and

(B) An opportunity in a public forum for the public to provide input on each charter application;

(6) Following the review and evaluation of a charter application, approval or denial of the charter application by the authorizer in a meeting open to the public;

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

(8) A provision that no charter school may begin operation before obtaining authorizer approval of its charter application and charter contract and fulfilling pre-opening requirements that may be imposed by the authorizer, pursuant to section 302D-14.5.

(d) A charter application to become a start-up or conversion charter school shall meet the requirements of this subsection, section 302D-25, and any other requirements set by the authorizer. The charter application shall, at a minimum:

(1) Include plans for a charter school that are likely to satisfactorily meet the academic, financial, organizational, and operational performance indicators, measures, and metrics set forth in the authorizer's performance framework, pursuant to section 302D-16;

(2) Include plans for a charter school that is in compliance with applicable laws; and

(3) Recognize the interests of the general public.

(e) In reviewing a charter application under this section, an authorizer shall take into consideration the constitution of the applicant governing board, terms of applicant governing board members, and the process by which applicant governing board members were selected.

(f) In reviewing charter applications under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year prior to the opening year of the proposed charter school for purposes of meeting any deadlines to request funding from the legislature; provided that nothing in this section shall be construed as requiring an authorizer to accept and review charter applications annually.

(g) If a conflict between the provisions in this section and other provisions in this chapter occurs, this section shall control. [L 2012, c 130, pt of §2; am L 2013, c 159, §8; am L 2014, c 99, §9; am L 2015, c 114, §5; am L 2016, c 113, §3]

TO: Senate Committee on Education  
FROM: Kulia Academy  
RE: Testimony in SUPPORT of SB 814

Chair Kidani and members of the committee:

My name is Murat Arabaci, and I am Board Secretary of the applicant governing board of Kulia Academy. We first applied in 2018. We are in the current application cycle that opened in 2020.

We want to express our support for the SB 814 that it requires “Statutory” criteria to approve or deny a charter application. As an applicant group, we fear that we could be denied for non-substantive reasons.

We also want to express our support for changes in regards to completeness check of charter applications. Missing page numbers on an appendix were referenced as a denial reason during the completeness check when we applied in 2018. So, we find it extremely helpful that the new law will provide “reasonable opportunity for the applicant governing board to cure any deficiency”.

Please contact us at our contact information below should you have any questions.

Sincerely Yours,

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**SB-814**

Submitted on: 2/6/2021 9:20:32 AM

Testimony for EDU on 2/8/2021 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Taffi Wise	Individual	Support	No

Comments:

The Charter School Commission processes for new school applicants, contract renewals, and contract negotiation are inconsistent, lack transparency, and do not follow the intent or letter of HRS302-D or national best practice. When 100% of the applicants can't get through a process there is a huge issue with the process, or an intent not to allow more charter schools. The Commission's portfolio of schools is too large. According to NACSA national best practice, an authorizer should only manage 10-12 schools. Mahalo nui for your attention to this matter and for your service to our community.

**LATE**

Aloha

I am writing to you on behalf of Maui's most vulnerable student population. Since 1973 Maui Hui Malama has been providing a safe space for students who have not fit in to the current Maui public schools where they are able to receive an education through the Department of Education, off campus of their home school due to a variety of reason. Majority of our clients have been asked to leave campus due to behavioral issues often linked to historical and generational trauma. They are provided work to do at home without the help of DOE teacher, and unable to access any services on campus. Some of them have been bullied and feel unsafe left feeling like they have to choose to between an education or safety. Many more reasons apply, but the same result are true, Maui Hui Malama has been a community support for the Department of Education and our Maui students for almost 50 years.

The changes in the Department of Education within the last 50 years have been difficult to navigate for students and ourselves. The requests to overcome the communication barriers between the DOE, our students, and our agency have been a glaring community need within the past 5 years at least. We took a leap to decide to apply as charter, to do what we have been doing for almost 50 years, but to better the communication and align with DOE.

You can imagine our surprise when we had a team of people looking over the Charter School application process, working tirelessly to meet short deadlines, providing documentation required, and we were not able to even get past the first step and be allowed to apply. Our team are not rookies in government applications processes. I even dare to gloat that we have strong skills in that area.

On April 15, 2020 we received a letter informing us that our intent to apply was denied with one single reason listed:

*After review of the Intent to Apply Packet, the Commission has found the submission to be incomplete:*

- *Resolution provided does not articulate the stated requirements*

As a first time charter school applicant, I thought, I don't understand what that means, but I'm sure there's a good reason. I then emailed to ask for clarification on this statement so that I could learn from my mistakes. In my email I asked for the clarification below:

*I understood that the list of documents that was listed on the first page needed to be turned in by the deadline, but there is nowhere that states that areas need to be articulated to a certain extent. If I missed the area on the instructions that state that, please let me know.*

The response I received stated this:

*Thank you for your email. I'm sorry that the intent to apply packet submitted by your team was found to be incomplete. As stated in the letter that you received yesterday, we noted that the*



*resolution provided does not articulate the stated requirements. In this case, both resolutions submitted did not meet the requirements of the RFP.*

*The first requirement was for a resolution from the applicant governing board approving the execution of the intent to apply packet. The resolution submitted to address this requirement was signed by you. However, since you are also the primary contact for the purposes of the intent to apply packet, the resolution should be signed by someone else on the board to give you the authority to do so.*

*The second requirement was for a resolution from the nonprofit board approving the establishment of the applicant governing board. The resolution submitted was missing the date that the board took action.*

My team and I looked through every link provided on the in the RFP have not found the specifications of these reasons to be listed.

On April 21, 2020. I asked for further clarification and referral to the resources that are provided to show us specifications required. Till this date I have not received a response.

This application process seems to navigate more on technical aspects versus community need and the ability for a group to provide data driven processes that have a strong hold on high level delivery. Even those technical aspects can be identified to not have a strong backing of being available to applicants as aspects that are required. I hope this Senate can identify this issue as barrier to the students who really need more realms of education paths then what is currently offered. Many of those students at a loss due to this technical issue are Hawaii's most vulnerable keiki.

Even if Maui Hui Malama has been a strong DOE support for almost 50 years, we are not asking for a free pass to an approved charter. What we are asking for is a honest, transparent, and ethical process that doesn't shut down the possibility to change thousands of student's lives due to technicalities which can be looked at as created and delivered by choice of the management of this application process. We strongly support bills SB 813, SB 814, and SB 864 and feel this is a need to deliver the schools the our keiki here in Hawaii deserve. .

I know that we are all in difficult times during our world's pandemic, and we appreciate you still working diligently in supporting Hawaii's students. I look forward seeing these bills passed in addition to:

“(4) A nonprofit organization may:

(A) Establish an applicant governing board that [~~is separate from the nonprofit organization~~] operates separately

from, but may have similar members with, its nonprofit organization, and develop a charter application for a start-up or conversion charter school; [øø] provided that the members of the applicant governing board shall not constitute the majority of members from the nonprofit organization; or”

Sincerely,  
Chelsie Evans  
Maui Hui Malama  
Executive Director  
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