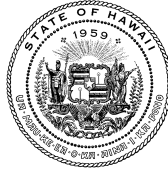


JOSH GREEN, M.D.
GOVERNOR



BRUCE D. VOSS
CHAIRPERSON

DEPT. COMM. NO. 212

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

December 20, 2022

The Honorable Ronald D. Kouchi, President
and Members of the Senate
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the annual report on the State's public charter schools as required by Section 302D-21, Hawaii Revised Statutes. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at:
<http://boe.hawaii.gov/policies/Pages/Reports.aspx>.

Sincerely,

Bruce D. Voss
Chairperson

cc: Legislative Reference Bureau
Department of Education (via email)
Office of the Governor (via email)
Office of the Lieutenant Governor (via email)
Department of Budget and Finance (via email)
Office of the Auditor (via email)

Enclosures



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

LEGISLATIVE REPORT

SUBJECT

Requesting the Board of Education (the "Board") provide the Governor, Legislature and the public an annual report on the State's public charter schools, drawing from the annual reports submitted by every authorizer as well as any additional relevant data compiled by the Board, for the school year ending in 2022. The annual report shall include:

- (1) The Board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of Hawaii Revised Statutes ("HRS") Chapter 302D, including the Board's assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools;
- (2) A line-item breakdown of all federal funds received by the Department of Education (the "Department") and distributed to authorizers;
- (3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools;
- (4) A summary of the criteria used by the charter school facilities funding working group, established pursuant to HRS §302D-29.5, in allocating facilities funding;
- (5) A detailed breakdown of the allocation of funding through general funds and bond funds;
- (6) A detailed list of the projects funded by general funds and bond funds;
- (7) The status of funding for projects previously awarded; and
- (8) A discussion of all Board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools.

REFERENCE

HRS §302D-21.

ACTION REQUESTED

Report to the 2023 Legislature.

REPORT

This is the 11th annual report provided by the Board pursuant to Act 130, Session Laws of Hawaii ("SLH") 2012, codified as HRS Chapter 302D and subsequently amended. The goal of Act 130, SLH 2012, was to strengthen the Hawaii charter school governance structure by establishing clear lines of authority, roles, and responsibilities that ensure accountability of the

charter school system. A key aspect of HRS Chapter 302D is increased oversight and accountability of charter schools and the authorizers that oversee them.

The annual report required by HRS §302D-21 is designed to meaningfully assess and support the provisions of the law. Since the first report in 2012, each subsequent report has built upon previous years' reports. These annual reports have provided information on the status of the charter schools, the implementation of accountability measures needed to fulfill the purposes of the law, the status of charter school facilities funding and the implementation of Act 234, SLH 2015¹, and the Board's efforts to implement charter school law and improve the charter school system. This year's report builds on last year's report.

FINDINGS

(1) The Board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the Board's assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools.

SUCSESSES

First regular performance evaluation of an authorizer. In previous reports, the Board reported that it made significant progress in the implementation of Hawaii Administrative Rules ("HAR") Chapter 8-515, entitled "Establishment and Oversight of Charter School Authorizers." The Board adopted an application for chartering authority, authorizing contract, and authorizer performance evaluation system.²

As reported last year, on May 14, 2021, the Board initiated the first regular performance evaluation of the State Public Charter School Commission (the "Commission") in accordance with HAR §8-515-11. The Board successfully completed this performance evaluation when it issued its performance evaluation report of the Commission on January 21, 2022.³ The Board gave the Commission an overall rating of "Improvements Necessary."

As a result of the rating, the Board has required the Commission to:

1. Develop continuous improvement plans to address every finding of deficiency contained in the report and consider the development of continuous improvement plans to address the other opportunities for improvement described in the report;

¹ Act 234, SLH 2015, section 1 states that the purpose of the Act is "to provide: (1) A framework for providing facilities funding and support for public charter school facilities with adequate prioritization, oversight, and accountability; and (2) Public charter schools and early learning programs that are affiliated with a public charter school with the opportunity to secure the use of additional state facilities deemed vacant and appropriate for use."

² More information about the background and development of the application for chartering authority, authorizing contract, and authorizer performance evaluation system is contained in Student Achievement Committee Chairperson Margaret Cox's memorandum dated May 2, 2019 here: http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_20190502_Action%20on%20multiple%20charter%20school%20authorizer%20system%20documents.pdf.

³ The Board's performance evaluation report of the Commission is available here: <https://boe.hawaii.gov/About/Documents/Charter%20Schools/2021%20Commission%20Performance%20Evaluation%20Report.pdf>.

2. Report periodically to an ad hoc committee created by the Board known as the Commission Outcomes Committee on the Commission's development of the continuous improvement plans until the Board determines that the Commission has developed all of the required continuous improvement plans; and
3. Include in its annual reports to the Board and Legislature a summary of any actions that the Commission took during the year to address the findings in this report through implementation of the Commission's continuous improvement plans.

The Board charged the Commission Outcomes Committee with monitoring the progress of the Commission in developing the required continuous improvement plans and making a recommendation to the Board when the Commission completes the development of these plans. The Commission Outcomes Committee is still engaging in this work, and next year's report to the Legislature will include an update on the committee's work.

Applications for chartering authority. On May 16, 2022, the Board released the notice inviting applications for chartering authority for its next application cycle. However, the Board did not receive any intents to apply by the deadline of June 6, 2022. The Board will release its next notice inviting applications in May of 2023 and will continue to report the results of its applications for chartering authority cycles in these annual reports.

Fiscal stability. For the 2021-2022 fiscal year, the Commission, currently the sole charter school authorizer in Hawaii, assessed the financial performance of all charter schools with a financial performance framework that examines the potential risk of fiscal insolvency. Based on the results of this financial performance framework, only three charter schools out of the 37 assessed received risk ratings lower than "acceptable," illustrating that the majority of charter schools remain fiscally sound.⁴ The results suggest that the financial status of charter schools, as a group, continues to be relatively stable. Note, however, that fiscal stability is likely more indicative of sound fiscal management by the majority of charter schools rather than the sufficiency of funding for charter schools. As described below, facilities funding continues to be an ongoing challenge.

CHALLENGES

Facilities funding. As noted in previous reports, a major and ongoing challenge is the lack of funding for charter school facilities. Act 234, SLH 2015, took a step toward addressing this perennial problem. This report addresses the reporting requirements of Act 234, but the Legislature has not appropriated general funds or authorized bonds for charter school facilities to date.

In previous reports, the Board reported that the Commission adopted a charter school facilities funding framework with criteria to determine the distribution of facilities funds, pursuant to HRS §302D-29.5. For many years, the Board has recommended that the Legislature provide some form of facilities funding to charter schools to address this

⁴ The Commission's 2021-2022 annual report is available on its website here: <http://www.chartercommission.hawaii.gov/reports>. See page 41 for a summary of charter schools' overall financial performance.

unmet need, especially with the facilities funding criteria in place. The Board once again urges the Legislature to consider providing facilities funding for charter schools.

Centralized support. As reported for several years, another major challenge is the lack of a system of support for charter schools. Unlike Department schools, charter schools do not have a centralized department or agency that allows them to take advantage of economies of scale and maximize their financial resources. The Commission attempts to fill this void by providing some supports. However, the Commission's statutory role as an authorizer conflicts with the role of a true support organization. Statute acknowledges this and restricts the level and type of support the Commission can provide.⁵ In addition, the approval of another authorizer without a non-authorizer centralized support agency would add complexity to the charter school system and expose it to potential conflicts of interests, fairness and equity issues, and unnecessary inefficiencies.⁶ The Legislature, Board, and other stakeholders could begin addressing this issue as part of an overall reassessment of the charter school system as discussed below.

AREAS FOR IMPROVEMENT

Holistic assessment of charter school system. As explained in last year's report, it has been over a decade since the Legislature passed Act 130, SLH 2012, overhauling the charter school system. The charter school system could benefit from another holistic reassessment of governance, authority, and accountability structures, especially in regards to powers, duties, and responsibilities.

One aspect of charter school law that has seen incremental yet consistent changes since 2012 is the expansion of powers and responsibilities of authorizers, particularly the Commission. It is important to analyze the structural implications and practical effects of these policy changes. For example, since the original codification of HRS Chapter 302-D, it seems that an authorizer now has the ability to *de facto* close a school without corresponding relief or due process. It is necessary to examine whether this is the intent of the Legislature and the implications this has on the charter school system.

In addition, structural improvements will be necessary for the Board to successfully implement and oversee a system with multiple charter school authorizers. As noted above and in previous reports, the Board made significant progress in the implementation of HAR Chapter 8-515. Still, the State (the Board, Legislature, and other agencies) has much work to do to create a charter school system that can support more than one authorizer. The issue of centralized support for charter schools noted above directly connects to a comprehensive multiple authorizer system. Further, the Board still has to develop an application form and process for charter transfers to implement HAR Chapter 8-517, entitled "Charter Contract Transfers," but the Board may want to first

⁵ Pursuant to HRS §302D-5(g), the Commission "shall not provide technical support to a prospective charter school applicant, an applicant governing board, or a charter school it authorizes in cases in which the technical support will directly and substantially impact any authorizer decision related to the approval or denial of the charter application or the renewal, revocation, or nonrenewal of the charter contract."

⁶ More information about how the centralized support issue relates to a multiple charter school authorizer system is contained in Student Achievement Committee Chairperson Margaret Cox's memorandum dated April 5, 2018 here:

http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/SAC_20180405_Action%20on%20charter%20school%20support%20structure.pdf.

consider amending its administrative rules or wait for a centralized support system to address some previously raised issues, such as the transfer of funds between authorizers when a charter school transfers. Finally, in its report to the 2020 Legislature (and referenced its subsequent annual reports), the Board explained a fundamental issue regarding funding for authorizers other than the Commission. Specifically, statute does not provide for a stable source of funds from the state budget for any authorizer other than the Commission, which makes it difficult for any other authorizer to exist.⁷

Because the task force the Legislature established in 2011 to address issues on charter school governance, accountability, and authority was successful in recommending comprehensive system changes that led to Act 130, SLH 2012,⁸ the Board recommends that the Legislature convene another task force to examine similar opportunities for improvement.

(2) A line-item breakdown of all federal funds received by the Department and distributed to authorizers.

Please see attached, Exhibit A.

(3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools.

In its report this year, the Commission notes that it continues to “collaborate with the [Department] on disbursement and monitoring of funding provided by the federal government through the American Rescue Plan Elementary and Secondary School Emergency Relief Fund.” The Commission also notes that it engages and collaborates with multiple state agencies, including the Department of Budget and Finance, the Department of Accounting and General Services, and the Department of Education.⁹

Based on the Commission’s report, the Board does not currently have any concerns regarding equity or recommendations to improve access to and distribution of federal funds to public charter schools. However, the Board notes that several charter school leaders have advocated for the removal of the exemption of charter schools and the Commission from HRS §302A-1401, which they argue allows the Commission to withhold more federal funds for the Commission’s own central administration rather than distributing those funds to the charter schools. The Board has not analyzed this issue.

(4) A summary of the criteria used by the charter school facilities funding working group, established pursuant to HRS §302D-29.5, in allocating facilities funding.

As noted above and in previous reports, the Commission adopted a charter school facilities funding framework with criteria to determine the distribution of facilities funds.¹⁰ The Commission’s framework includes a process for soliciting and evaluating

⁷ The Board’s report to the 2020 Legislature on charter schools is available here: [https://boe.hawaii.gov/policies/Documents%20/BOE%20Charter%20School%20Report%20to%202020%20Legislature%20\(transmittal\).pdf](https://boe.hawaii.gov/policies/Documents%20/BOE%20Charter%20School%20Report%20to%202020%20Legislature%20(transmittal).pdf).

⁸ The task force’s report to the 2012 Legislature is available here: https://www.capitol.hawaii.gov/session2011/studies/CSGTF_REPORT.pdf.

⁹ Commission 2021-2022 annual report, page 51.

¹⁰ Commission 2019-2020 annual report is available on its website here: <http://www.chartercommission.hawaii.gov/reports>. See pages 279-292.

applications for facilities funding. Charter schools with virtual education as the primary method of delivering core subject instruction or with school facilities already paid for by the State are ineligible to apply.

The criteria for prioritizing applications for facilities funding include:

- Needs of the charter school, such as the existence of substandard facilities, other equity and adequacy needs, and issues of health, safety, and legal compliance;
- Overall benefit to its surrounding community, such as overcrowding relief for Department schools or providing options for families whose Department school is low performing;
- Amount of risk and availability of recourse to the State;
- Whether the charter school received facilities funding through other state funding;
- School facilities located on State property or under an agreement whereby the State controls the property with at least 20 years remaining; and
- Title I status.

The Charter School Facilities Funding Working Group has not yet used the criteria described above to allocate facilities funding because the Legislature has not yet appropriated general funds or issued bond authorization to charter schools for facilities, pursuant to HRS §302D-29.5.

(5) A detailed breakdown of the allocation of funding through general funds and bond funds.

The Legislature has not yet appropriated general funds or issued bond authorization to charter schools for facilities.

(6) A detailed list of the projects funded by general funds and bond funds.

There are currently no charter school facilities projects being funded by general funds or bond funds.

(7) The status of funding for projects previously awarded.

No charter school facilities projects have been awarded general funds or bond funds.

(8) A discussion of all board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools.

As it has done in past reports, the Board is again providing a full list of all current policies, attached as Exhibit B, indicating whether each policy is applicable to charter schools.

Since its last report, the Board has not adopted new policies or amended existing policies.

FUTURE ACTIONS

In next year's report, the Board will report on the Commission Outcomes Committee's work and the progress the Commission has made in addressing the outcomes of the Board's performance evaluation. As it did last year, Board again recommends that the Legislature establish a task force to reexamine governance, authority, and accountability structures, including the expansion of authorizers' powers and responsibilities, centralized support for charter schools, and a system with multiple charter school authorizers. As it has done nearly every year, the Board again urges the Legislature to provide facilities funding to address the issue of long-term financial stability and equity, which has been a clear issue in each of the Board's 11 annual reports.