



## WAIMEA MIDDLE SCHOOL

*"Empowering all students with the skills, values and cultural understanding to successfully navigate high school and beyond."*

**A WASC-Accredited Public Conversion Charter School – 2014-2020**

67-1229 MAMALAHOA HIGHWAY \* KAMUELA, HAWAII 96743

March 26, 2019

**TO: Hawai'i State Senate Committee Ways And Means**

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Senator Lorraine R. Inouye  
Senator Kaiali'i Kahele  
Senator Dru Kanuha  
Other fellow WAM Committee Members

**RE: STRONGLY OPPOSE HB622 SD1 – Please defer action – or further amend  
RELATING TO PUBLIC CHARTER SCHOOLS**

Thank you for this opportunity to convey concerns about **HB622 SD1**. We appreciate the Legislature's desire to provide all Hawai'i public school children a good educational foundation and also, to ensure public funds are appropriately spent. We also appreciate revisions made in HB622HD2 by the Sen. Education Committee, now reflected in SD1, but still have serious reservations.

Hawai'i's Public Charter School Commission and the BOE have, in response to legislative and community expectations, significantly tightened up on the (1) academic, (2) operational and (3) fiscal management of public charter schools over the past three years. Each of us have executed contracts responding to these controls and monitoring is ongoing. If anything, oversight is significantly more stringent, while resource allocation is less per child.

We sincerely hope that the Legislature recognizes that most of us public charter schools have been responsible administrators of public funds and educational policy for thousands of island children, and this is now a rigorously enforced and monitored by the Public Charter School Commission – at the Legislature's direction -- in order to receive or renew our charter contract.

Concurrently, as one of the state's first public conversion charter schools, we are proud of our 15-year record of financial accountability and "clean" audits. We do not shy away from transparency and accountability and annually undergo audits. In the beginning, for our school to do an audit was "the exception," now it's required of all public charter schools by our contract.

**There are still several areas of grave concern in HB622 SD1:**

**Section 302D- Federal investigations, charges; public funds.** We appreciate the revisions made here by the Senate Education Committee, specifically focusing the constraint of funds to those charter schools "upon the filing of federal criminal charges." However, please note that criminal charges could be filed for many reasons that have no connection to the fiscal management of the school. We question why non-fiscal criminal charges should impact the fiscal operation of a school.

Also, we urge that the legislature acknowledge that establishing a procedural reporting framework and process for all funds transferred to the Public Charter School Commission in the event that federal criminal charges are filed against a public charter school will require additional time and

**STRONGLY OPPOSE HB622 SD1 – *Please defer action*  
RELATING TO PUBLIC CHARTER SCHOOLS**

oversight by Commission staff and needs to be please addressed in the commission budget allocation.

**Section 302D- Legislative appropriations; state treasury.** The dates specified are what we currently operate with, though at present the final 10% drop “is no later than June 30,” instead of being “retained until June 30.” This final drop is currently subject to compliance expectations. We prefer current language but could live with the revision.

**Section 302D- Annual audit.** We are fine with requiring audits and we have always done one (not inexpensive), because we believe in and support transparency and accountability.

**Section 302A-122 Board of education; eligibility.** Under section 302A-121 (a)(5): Requiring a 4-year cooling off period before service on the Board of Education by a former public charter school employee, governing board member, vendor, contractor, agent, or representative is not just over-reach, but will in fact prevent highly qualified individuals from serving on this extremely important board. A one-year cooling off period should be sufficient as it is for most other state (and county) boards and commissions.

**Section 302D-8 Conflict of interests.** (a) Again, four years is over-reach. One year should be sufficient.

We concur with the provision in (b) that an employee, trustee, agent, or representative of an authorizer shall not simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that authorizer.

**We thank the Ways and Means Committee for considering these factors. While our preference would be that this bill be deferred, or narrowed to address Section 302D-8 Conflict of interests exclusively (revised to reflect a one-year cooling off period), we urge that at the least, revisions be made based on the above comments if moving this bill forward to conference committee.**

As an individual school, we are always open to detailed discussion of our academic programs and services, and our operational and financial status and records. We welcome these discussions because, just as with every other public school in the state (and country), we struggle to provide the supports our children need, especially those from families grappling with serious poverty, skyrocketing cost of living and/or learning challenges.

We are proud of our teachers’ and staff’s commitment to raising the bar for all children, as challenging as this is. Thank you for your consideration.

**Janice English**  
Principal

**Pat Rice**  
Grants Manager

**Patti Cook**  
Development Director

[www.WaimeaMiddleSchool.org](http://www.WaimeaMiddleSchool.org)



**STATE OF HAWAI`I**  
**Kualapu'u School**  
**Public Conversion Charter**  
P O Box 260  
Kualapu'u, Molokai, Hawaii 96757  
Phone: (808) 567-6900, Fax: (808) 567-6906

March 27, 2019

TO: Hawai'i State Senate Committee Ways And Means

- Senator Donovan M. Dela Cruz, Chair
- Senator Gilbert S.C. Keith-Agaran, Vice Chair
- Other fellow WAM Committee Members

FROM: Lydia Trinidad, Principal  
Kualapu`u Public Conversion Charter School  
Molokai, Hawaii

**RE: STRONGLY OPPOSE HB622 SD1 – Please defer action – or further amend  
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Hawai'i's Public Charter School Commission and the BOE have, in response to legislative and community expectations, significantly tightened up on the (1) academic, (2) operational and (3) fiscal management of public charter schools over the past three years. Each of us have executed contracts responding to these controls and monitoring is ongoing. If anything, oversight is significantly more stringent, while resource allocation is less per child.

We sincerely hope that the Legislature recognizes that most of us public charter schools have been responsible administrators of public funds and educational policy for thousands of island children, and this is now a rigorously enforced and monitored by the Public Charter School Commission – at the Legislature's direction -- in order to receive or renew our charter contract.

Concurrently, as one of the state's first public conversion charter schools under Ho'okako'o Corporation as our local school board, we are proud of our record of financial accountability and "clean" audits. We do not shy away from transparency and accountability and annually undergo audits. In the beginning, for our school to do an audit was "the exception," now it's required of all public charter schools by our contract.

There are still several areas of grave concern in HB622 SD1:

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Section 302D-8 Conflict of interests. **(a) Again, four years is over-reach. One year should be sufficient.**

We concur with the provision in (b) that an employee, trustee, agent, or representative of an authorizer shall not simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that authorizer.

We thank the Ways and Means Committee for considering these factors. While our preference would be that this bill be deferred, or narrowed to address Section 302D-8 Conflict of interests exclusively (revised to reflect a one-year cooling off period), we urge that at the least, revisions be made based on the above comments if moving this bill forward to conference committee.

As an individual school, we are always open to detailed discussion of our academic programs and services, and our operational and financial status and records. We welcome these discussions because, just as with every other public school in the state (and country), we struggle to provide the supports our children need, especially those from families grappling with serious poverty, skyrocketing cost of living and/or learning challenges.

We are proud of our teachers' and staff's commitment to raising the bar for all children, as challenging as this is. Thank you for your consideration.



**HB622 HD2 SD1**  
**RELATING TO PUBLIC CHARTER SCHOOLS**  
Senate Committee on Ways and Means

March 28, 2019

10:20 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **COMMENT** on the provisions of HB622 HD2 SD1 that (i) require charter schools' funds to be deposited into a banking system that has the State Public Charter School Commission (Commission) and the charter schools' authorizers as primary parties to the banking account; and (ii) prohibit any individual with affiliations with a public charter school from serving on the State Board of Education (BOE) or the Commission within four years of their appointment. **The former provision may interfere with Hawai'i's public charter schools' timely access to school funds, and the latter would prohibit individuals with substantial hands-on knowledge, educational expertise, and practical, timely experience from serving on the BOE and the Commission. Accordingly, this measure may substantially inhibit public charter schools' ability to fulfill their mission, and to serve as innovation labs for Hawai'i's educational system as a whole.**

**First, OHA notes that the proposed banking account system may conflict with state statutory policies upholding the autonomy of public charter schools, as called for under national guidelines.** Section 302D-6, Hawai'i Revised Statutes (HRS), requires charter school authorizers to follow "nationally recognized principles and standards" for quality charter authorizing in all major areas of authorizing responsibilities. The National Association of Charter School Authorizers' (NACSA) *Principles & Standards for Quality Charter School Authorizing*<sup>1</sup> are the most widely recognized national principles and standards for quality charter school authorizing, and include three core principles for authorizers: (i) maintain high standards for schools; (2) **uphold school autonomy**; and (iii) protect student and public interests. The principle relating to upholding school autonomy states, in relevant part, that a quality authorizer "honors and preserves core autonomies crucial to school success" and "minimizes administrative and compliance burdens" (emphases added). OHA respectfully submits that the banking account requirements in HB622 HD2 SD1 may impair charter school autonomy if the banking account system requires the Commission and authorizer to approve every withdrawal a charter school needs to make from its bank account; such a requirement would subject schools to an

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<sup>1</sup> See the National Association of Charter School Authorizers' *Principles & Standards for Quality Charter School Authorizing, 2018 Edition*, here: <https://www.qualitycharters.org/wp-content/uploads/2018/10/NACSA-Principles-and-Standards-2018-Edition.pdf>

unnecessary level of oversight in decisionmaking and operations, potentially inhibiting the timely expenditure of per-pupil funds for basic operational costs, and creating other significant administrative burdens that can substantially interfere with a school's autonomy.

Notably, HRS section 302D-28.5 provides that in the event a public charter school is unable to pay its staff when payroll is due, the school shall be deemed to have surrendered its charter, automatically triggering school closure without recourse. **Accordingly, delays in payroll expenditures resulting from a Commission and authorizer approval requirement may even risk school closure.**

OHA does submit that a proposed banking account system allowing charter schools to access school funds without delay to meet school expenses, while enabling the Commission and their authorizer to review charter school banking records for possible irregularities, may be a more reasonable means of providing a level of accountability for charter school spending without substantially undermining charter schools' autonomy.<sup>2</sup>

**Accordingly, should the Committee choose to move this measure forward, OHA respectfully urges that public charter schools be allowed to access their charter school funds in a timely manner and without delay; otherwise, severe and irreparable hardship to our public charter schools and the students, families, and communities they serve may result.**

Second, OHA is concerned with Part II of this measure, which would disqualify any person affiliated with a public charter school in the preceding four years as a public charter school employee, governing board member, vendor, contractor, agent, or representative, from being eligible for service on the State Board of Education (BOE) as well as the Commission. **Disqualifying such individuals would deprive the BOE and the Commission from the much needed first-hand knowledge, expertise, and practical experience they may possess.**

Significantly, HRS Section 302D-3 explicitly requires that “[e]ach [Commission] nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration **of a high performing charter school system;**” and **that “[e]ach [Commission] nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such”** (emphases added). Accordingly, provisions prohibiting those with any public charter school affiliation within the preceding four years from serving on the Commission would foreclose nominees with those very traits, significantly undermining these critical statutory mandates.

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<sup>2</sup> OHA supports improved oversight and accountability, particularly as OHA has been a major funder of Hawai'i's public charter schools, having invested almost \$22 million in the seventeen Hawaiian culture-based or Hawaiian language immersion charter schools since FY 2005-2006. Nevertheless, OHA recommends that the proposed banking account system be implemented with the above-stated concerns in mind.

In addition, OHA notes that the BOE currently includes a former charter school governing board member, who brings extensive educational knowledge and expertise to the BOE, enabling it to better meet its considerable responsibilities relating to statewide educational policy, student performance standards and assessment models, and overall school success, among others.<sup>3</sup> Similarly, several Commission members are former charter school administrators, faculty, and governing board members, who bring to the Commission comprehensive first-hand knowledge, expertise, and practical expertise about public charter schools. **As these members illustrate, precluding those with past public charter school affiliations from service on the BOE and the Commission may preclude those with the most relevant expertise and experience from helping the BOE and the Commission fulfill their respective roles in the education of our keiki.**

Accordingly, should the Committee choose to move this measure forward, OHA urges the Committee to make the following amendments, which would make currently affiliated members, as opposed to previously affiliated members, ineligible to serve:

Amending the language on page 5, lines 13 through 18, by striking “within four years preceding appointment to the board” to read as follows:

“(3) If the person is affiliated with any public charter school. For the purposes of this paragraph, “affiliated” means attached or connected as a current employee, governing board member, vendor, contractor, agent, or representative.”

Amending the language on page 6, lines 1 through 5, by striking “was” and “within four years preceding appointment to the commission;” and amending the language on page 6, lines 6 through 9, by striking “or previous” to read as follows:

“(a) A member of the state public charter school commission shall not be eligible to serve on the commission if the member is affiliated with any public charter school.

For the purposes of this subsection, “affiliated” means attached or connected as a current employee, governing board member, vendor, contractor, agent, or representative.”

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<sup>3</sup> Notably, these provisions may also conflict with the Governor’s constitutional authority under Article X, Section 2 of the State Constitution to nominate, and, with the advice and consent of the Senate, appoint members of the board of education.

OHA continues to be a strong supporter of Hawai'i's public charter schools, many of which provide a culturally-grounded education for Native Hawaiian and other children. 17 of the 37 public charter schools in Hawai'i are Hawaiian culture-based or Hawaiian language immersion schools, in which OHA has invested over \$18.6 million between FY 2005-2006 and FY 2016-2017. On October 19, 2017, the OHA Board of Trustees approved an additional \$3 million total to these charter schools for FY 2017-2018 and FY 2018-2019. OHA made this investment because research shows that Hawaiian students exposed to culturally-driven educational strategies have a stronger sense of socio-emotional well-being, deeper engagement with their schools, and a stronger commitment to civic activities in their community, factors which are directly tied to greater academic achievement.

Mahalo nui for the opportunity to testify on this measure.



**HB-622-SD-1**

Submitted on: 3/27/2019 9:18:49 AM

Testimony for WAM on 3/28/2019 10:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Heather J McDaniel	Testifying for Connections Public Charter School	Oppose	No

Comments:

**HB-622-SD-1**

Submitted on: 3/27/2019 8:47:41 AM

Testimony for WAM on 3/28/2019 10:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Thatcher	Testifying for Connections PCS	Oppose	No

Comments:

While the new proposed language dealing with federal investigations, if passed, may affect a small portion of the charter school community, the section affecting legislative appropriations and mandatory use of purchase orders will send a tidal wave of confusion and strife throughout the entire system. All of the charter schools' contracts with the Commission will have to undergo major modifications. This would place a huge burden on the Commission's staff in itself. But to have to implement a brand new comprehensive financial management system added to this, will be overwhelming. The organizational viability of all charter schools and the Commission will be undermined. Where will the funding for the infrastructure needed to implement such a comprehensive system of financial micromanagement come from? Who will pay for the new staff that will be needed by the Commission?

**HB-622-SD-1**

Submitted on: 3/27/2019 9:57:45 AM

Testimony for WAM on 3/28/2019 10:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brandon Keoni Bunag	Testifying for Halau Ku Mana Public Charter School	Oppose	No

Comments:

**HB-622-SD-1**

Submitted on: 3/27/2019 10:12:39 AM

Testimony for WAM on 3/28/2019 10:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Quinn	Individual	Support	No

Comments:

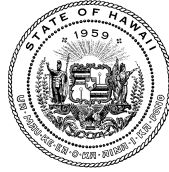
Dear Honorable Committee Members:

Please support HB622. Better regulations should reduce irregularities in charter school funding and operation.

Thank you for your time.

Andrea Quinn

Kihei



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

**Senate Committee on Ways and Means**

Wednesday, March 28, 2019  
10:20 a.m.  
Hawaii State Capitol, Room 211

**House Bill 622, House Draft 2, Senate Draft 1, Relating to Public Charter Schools**

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Board of Education ("Board") would like to provide comments on HB 622 HD2 SD1, which would transfer control of public funds disbursed to a charter school to the State Public Charter School Commission ("Commission") upon filing of criminal charges against an employee of the charter school for actions taken in the course of employment at the charter school; require authorizers to establish a banking account system to pay charter school expenses; require authorizers to select the independent auditors that are to perform the audits on charter schools; and prohibit individuals from serving as Board or Commission members if the individual was affiliated with a charter school within four years preceding appointment.

The Board supports legislation that requires charter school authorizers to hold charter schools accountable to academic, financial, and organizational outcomes, including compliance with applicable laws. To that end, the Board supports the intent of the provisions of this measure that require annual financial audits by independent auditors selected by the authorizer.

The Board opposes legislation that increases charter school accountability at the expense of the operational autonomy necessary for charter schools to fulfill their missions and act as independent public schools. The Board appreciates the replacement of the provisions establishing a purchase order system with provisions that would instead establish a banking account system, and the Board supports the intent of the banking account system to the extent that it does not infringe upon the core autonomies charter schools need to be high-quality public schools. However, the Board finds that the provisions transferring control of public funds to the Commission upon filing of criminal charges against an employee of a charter school to be an unnecessary infringement upon charter school autonomy and conflict with existing statute and national principles and standards for quality authorizing.

While a charter school should make its authorizer aware of any federal criminal charges filed against one of its employees for actions taken in the course of employment at the school, such charges of an individual employee do not mean that the charter school violated law or its charter

contract. Even if the charges of the individual employee lead to a finding of the charter school's noncompliance with law or its charter contract, Section 302D-17, Hawaii Revised Statutes ("HRS"), requires the authorizer to "provide reasonable opportunity for the charter school to remedy the problem[.]" By automatically taking away the school's control over its funds upon the filing of federal criminal charges of an individual, the school is condemned before its authorizer even finds noncompliance, and the school loses the operational autonomy it needs to take necessary corrective actions.

Section 302D-6, Hawaii Revised Statutes, states, in pertinent part, "All authorizers shall be required to follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibilities[.]" The mostly widely recognized national principles and standards for quality authorizing are the National Association of Charter School Authorizers' *Principles & Standards for Quality Charter School Authorizing*,<sup>1</sup> which includes upholding school autonomy as one of its three core principles. This principle states, among other relevant things, that a quality authorizer "honors and preserves core autonomies crucial to school success" and "minimizes administrative and compliance burdens on schools." The aforementioned provisions would prevent authorizers from meeting this principle and Section 302D-6, HRS, and would hinder schools from remedying any problems, pursuant to Section 302D-17, HRS.

**Therefore, the Board respectfully requests that the Committee amend this measure by removing the provisions that transfer control of public funds to the Commission upon filing of federal criminal charges against an employee of a charter school and instead require a charter school with an employee under federal investigation to inform the authorizer of the investigation.** Specifically, the Board requests the Committee to replace the proposed new statutory section entitled "Federal investigation; charges; public funds" under Section 1 of Senate Draft 1 of the measure (page 1, line 5 to line 13) with the proposed new statutory section entitled "Federal investigations" under Section 1 of House Draft 2 of the measure (page 1, line 5 to line 13).

The Board takes no position on the prohibition of affiliations between the Board, Commission, and charter schools as it relates to the Board's governance structure because the Board believes it is most appropriate for the Legislature and Governor to decide such matters. However, the Board would like to provide comments on this prohibition.

Quality policymaking and oversight requires experience and knowledge in the subject matter area, which gives governing entities insight and in-depth knowledge of how the organizations under their oversight jurisdiction work. For example, having Board members who are former Department of Education teachers and principals provides the Board with insight and in-depth of how the Department of Education works. Similarly, charter school experience and knowledge gained while an employee, governing board member, vendor, contractor, agent, or

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<sup>1</sup> See the National Association of Charter School Authorizer's *Principles & Standards for Quality Charter School Authorizing, 2018 Edition*, here: <https://www.qualitycharters.org/wp-content/uploads/2018/10/NACSA-Principles-and-Standards-2018-Edition.pdf>.

representative gives members of the Board and Commission insight and in-depth knowledge of how charter schools and charter school authorizers work. Eliminating this knowledge from the Board and Commission potentially hinders the ability of these governing entities to effectively and efficiently oversee charter schools and charter school authorizers.

**Moreover, even with the added four-year cooling off period in the current draft, this bill could potentially result in the ineligibility of at least three current Board members and between four to eight Commission members, which would be a great disruption that would not benefit our students, unless the prohibition of previous charter school employees, governing board members, vendors, contractors, agents, or representatives serving on the Board and Commission is removed.**

The Board, like the Legislature and all policymaking bodies, has to make some hard decisions. Each member of the Board believes public education is one of the most important services the State provides, and we want what is best for our students. We leave the important task of determining the best way to govern our public education system to you and the Governor.

Finally, the Board would like to comment on the bill's references to the Commission and authorizers as it relates to a charter school system with more than one authorizer. The Board is in the process of implementing a system that would allow for more authorizers than just the Commission, as required by Chapter 302D, HRS. Such a system is already complex, and some of the bill's provisions would convolute the lines of authority between the Board, Commission, and other authorizers. **To ensure consistency and clarity for the powers and responsibilities of all authorizers, the Board recommends all of the bill's references to the Commission be changed to include all authorizers.** Specifically, remove "the commission and" on page 2, lines 19 to 20, and (if the Committee decides to keep the provisions the Board opposes, as described above) replace "commission" with "charter school's authorizer" on page 1, line 10, and replace "commission" with "authorizer" on page 1, line 11 and line 12.

The Board's position and comments on this measure are in regards to matters of public policy only, and the Board defers to the Commission on operational and implementation matters affecting authorizers and to each charter school on operational and implementation matters affecting their respective schools.

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

Very truly yours,

Catherine Payne  
Chairperson, Board of Education  
Chairperson, 2019 Legislative Ad Hoc Committee



**HB-622-SD-1**

Submitted on: 3/27/2019 12:03:17 PM  
Testimony for WAM on 3/28/2019 10:20:00 AM

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

Comments:



**LATE**

**HB-622-SD-1**

Submitted on: 3/27/2019 1:09:46 PM

Testimony for WAM on 3/28/2019 10:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Katie Benioni	Individual	Oppose	No

Comments: