

Aloha Representative Mark Nakashima; Chair of the Judiciary and Hawaiian Affairs Committee,

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.

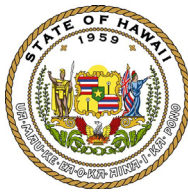
On April 21, 2020. I asked for further clarification and referral to the resources that are provided to show us specifications required. Till this date I have not received a response.

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 committee 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 bill HB1220 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 this bill passed and the possibilities of future endeavors that will come from it.

Sincerely,
Chelsie Evans
Maui Hui Malama
Executive Director
(808)244-5911
chelsie@mauihui.org



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

Committee: Committee on Judiciary and Hawaiian Affairs
Bill Number: H.B. 1220
Hearing Date/Time: Tuesday, February 16, 2021, 2:00 p.m.
Re: Testimony of the Hawai'i State Ethics Commission
with **COMMENTS** on H.B. 1220, Relating to Charter Schools

Chair Nakashima, Vice Chair Matayoshi, and Committee Members:

The Hawai'i State Ethics Commission respectfully submits the following comments on H.B. 1220, which seeks to allow charter school governing boards to include members of the school's supporting nonprofit organization.

The Ethics Commission echoes the concerns raised by the Charter School Commission in its written testimony regarding Hawai'i Revised Statutes ("HRS") § 302D-13(b)(4)(A). This measure raises significant questions about how charter school governing boards can manage/mitigate potential conflicts of interests if governing board members also have financial interests¹ in the school's nonprofit organization – particularly in situations where the school (through its governing board) rents property from or otherwise engages in financial transactions with the nonprofit organization.

The Ethics Commission respectfully requests that, if this bill moves forward, the Committee provide greater direction to both the Charter School Commission and the Ethics Commission as to how these conflicts should be addressed. The Ethics Commission is available to consult further on these questions, and we apologize for the late (and limited) testimony.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on H.B. 1220.

Very truly yours,

Daniel M. Gluck
Executive Director and General Counsel

¹ The State Ethics Code provides that a "financial interest" in the nonprofit organization includes being an officer, director, or employee of the nonprofit. HRS § 84-3.

DAVID Y. IGE
GOVERNOR



JOHN S.S. KIM
CHAIRPERSON

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

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FOR: HB 1220 HD1 Relating to Charter Schools
DATE: February 16, 2021
TIME: 2:00 P.M.
COMMITTEE: Committee on Judiciary and Hawaiian Affairs
ROOM: Conference Room 325
FROM: Yvonne Lau, Interim Executive Director
State Public Charter School Commission

Chair Nakashima, Vice Chair Matayoshi, and members of the Committee:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony providing **COMMENTS on HB 1220 HD1** which requires members of the charter school commission to collectively possess strong experience and expertise in various fields. Allows staff of an authorizer to assist in the application and review process and completion of an incomplete application. Clarifies charter application notice requirements. Clarifies authorizer compliance requirements in cases of an appeal.

The Commission is concerned with the proposed changes to Section 2, page 2, lines 11-16, page of the bill. The addition of this provision of the statute will create a conflict with the Commission’s statutory oversight functions. The provision itself articulates the conflict: “the authorizer 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 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. . .” While HD1 clarified that it is the Commission staff that is to provide the technical support, the Commission staff is there to serve the Commission and cannot at the same time serve as technical support for prospective applicants without creating a conflict of interest.

The Commission is concerned with the proposed changes to Section 3, page 4, lines 6-14. The elimination of the prohibition of members of a non-profit organization from serving on an applicant governing board raises issues of conflict of interest. Charter School governance is at

the heart of a well run and high-quality public charter school. Conflicts of interest have arisen in the past with public charter school governing board members and their concurrent membership with an associated non-profit governing board. Indeed, the Hawaii Ethics Commission issued a [guidance letter](#) to all public charter school governing boards noting the possible conflicts of interest that can arise. For these reasons, the Commission has concerns with the changes to the statute being proposed.

With respect to the proposed changes to the statute in the remainder of Section 3, 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.

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]

HB-1220-HD-1

Submitted on: 2/15/2021 1:54:26 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rana Boone	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi, and members of the committee:

Mahalo for taking the time to thoroughly review HB 1220. I am in support of all measures within the bill. As a recent applicant in the Hawai'i public charter school application process, I can attest to the need to improve the process for proposed charter school applicant groups. Please support HB 1220 so that these much-needed changes can be put into action.

Mahalo,

Rana Boone

on behalf of the community represented by Maui Academy of Arts and Sciences

HB-1220-HD-1

Submitted on: 2/15/2021 2:22:49 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Thatcher	Individual	Comments	No

Comments:

Please restore Section 1 to read:

SECTION 1. Section 302D-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (c) and (d) to read:

"(c) The commission shall consist of nine members [~~to be appointed by the board.~~]. Three members shall be appointed by the governor; two members shall be appointed by the president of the senate and one member by the senate minority leader; and two members shall be appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives. The [~~board~~] appointing authorities shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The [~~board~~] appointing authorities shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders. Members of the commission shall collectively possess strong experience and expertise in public and nonprofit governance; management and finance; public school leadership; assessment; curriculum and instruction; and public education law. The commission shall be exempt from sections 26â€³34 and 26â€³36.

HB-1220-HD-1

Submitted on: 2/16/2021 10:05:32 AM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Hirakami	Hawaii Academy of Arts & Science PCS	Support	No

Comments:

Please restore Section 2 of the original bill HB1220. this HD1 draft eliminates the section most needed by the charters: multiple authorizers. It is absolutely the most important component of the bill.