

JAN 27 2021

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 302D-3, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsections (c) and (d) to read:
4 "(c) The commission shall consist of nine members [~~to be~~
5 ~~appointed by the board. The board~~]. Three members shall be
6 appointed by the governor, two members shall be appointed by the
7 president of the senate, one member shall be appointed by the
8 senate minority leader, two members shall be appointed by the
9 speaker of the house of representatives, and one member shall be
10 appointed by the minority leader of the house of
11 representatives. The appointing authorities shall appoint
12 members who will be tasked with authorizing public charter
13 schools that serve the unique and diverse needs of public school
14 students. The chair of the commission shall be designated by
15 the members of the commission for each school year beginning
16 July 1, and whenever there is a vacancy. The [~~board~~] appointing
17 authorities shall consider the combination of abilities, breadth



1 of experiences, and characteristics of the commission, including
2 but not limited to reflecting the diversity of the student
3 population, geographical representation, and a broad
4 representation of education-related stakeholders. Members of
5 the commission shall collectively possess strong experience and
6 expertise in public and nonprofit organization governance,
7 management, finance, public school leadership assessment,
8 curriculum, instruction, and public education law. The
9 commission shall be exempt from sections 26-34 and 26-36.

10 (d) Understanding that the role of the commission is to
11 ensure a long-term strategic vision for Hawaii's public charter
12 schools, each nominee to the commission shall meet the following
13 minimum qualifications:

14 (1) Commitment to [~~education.~~] charter schooling. Each
15 nominee's record should demonstrate a deep and abiding
16 interest in education, and a dedication to the social,
17 academic, and character development of young people
18 through the administration of a high performing
19 charter school system;

20 (2) Record of integrity, civic virtue, and high ethical
21 standards. Each nominee shall demonstrate integrity,



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1 civic virtue, and high ethical standards and be
2 willing to hold fellow commission members to the same;

3 (3) Availability for constructive engagement. Each
4 nominee shall commit to being a conscientious and
5 attentive commission member; and

6 (4) Knowledge of best practices. Each nominee shall have
7 an understanding of best practices in charter school
8 educational governance or shall be willing to be
9 trained in such."

10 2. By amending subsections (g) and (h) to read:

11 "(g) Commission members shall serve not more than three
12 consecutive three-year terms, with each term beginning on
13 July 1[, ~~provided that the initial terms that commence after~~
14 ~~June 30, 2012, shall be staggered as follows:~~

15 ~~(1) Three members, including the chairperson, to serve~~
16 ~~three year terms;~~

17 ~~(2) Three members to serve two year terms; and~~

18 ~~(3) Three members to serve one year terms].~~

19 Beginning July 1, 2021, as the terms of existing members expire,
20 each new appointee shall be appointed by the respective
21 appointing authorities in the following order: governor,



1 president of the senate, senate minority leader, speaker of the
 2 house of representatives, minority leader of the house of
 3 representatives, governor, president of the senate, speaker of
 4 the house of representatives, and governor. The seats shall
 5 retain their current term expirations.

6 (h) Notwithstanding the terms of the members, [~~the board~~]
 7 an appointing authority may fill vacancies [~~in~~] on the
 8 commission of any seat for which the appointing authority is
 9 responsible at any time when a vacancy occurs due to
 10 resignation, non-participation, the request of a majority of the
 11 commission members, or termination by the [~~board~~] responsible
 12 appointing authority for cause."

13 SECTION 2. Section 302D-4, Hawaii Revised Statutes, is
 14 amended as follows:

15 1. By amending subsections (b) and (c) to read:
 16 "(b) Governing boards of accredited public and private
 17 postsecondary institutions, including community colleges,
 18 technical colleges, and four-year universities may [~~apply to the~~
 19 ~~board, pursuant to this section, for statewide, regional, or~~
 20 ~~local chartering authority,~~] authorize public charter schools

1 anywhere in the State, in accordance with each institution's
2 regular operating jurisdiction.

3 (c) A county or state agency may [~~apply to the board,~~
4 ~~pursuant to this section, for chartering authority.~~] authorize
5 public charter schools."

6 2. By amending subsection (h) to read:

7 "(h) This section shall not apply to the [~~commission.~~]
8 entities listed in subsections (a), (b), and (c)."

9 SECTION 3. Section 302D-5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§302D-5 Authorizer powers, duties, and liabilities.** (a)
12 Authorizers are responsible for executing the following
13 essential powers and duties:

- 14 (1) Soliciting and evaluating charter applications;
15 (2) Approving quality charter applications that meet
16 identified educational needs and promote a diversity
17 of educational choices;
18 (3) Declining to approve weak or inadequate charter
19 applications;



- 1 (4) Negotiating and executing sound charter contracts with
2 each approved charter applicant and with existing
3 public charter schools;
- 4 (5) Monitoring, in accordance with charter contract terms,
5 the performance and legal compliance of public charter
6 schools; and
- 7 (6) Determining whether each charter contract merits
8 renewal, nonrenewal, or revocation.
- 9 (b) An authorizer shall:
- 10 (1) Act as a point of contact between the department and a
11 public charter school it authorizes;
- 12 (2) Be responsible for and ensure the compliance of a
13 public charter school it authorizes with all
14 applicable state and federal laws, including reporting
15 requirements;
- 16 (3) Be responsible for the receipt of applicable federal
17 funds from the department and the distribution of
18 funds to the public charter school it authorizes; and
- 19 (4) Be responsible for the receipt of per-pupil funding
20 from the department of budget and finance and



1 distribution of the funding to the public charter
2 school it authorizes.

3 (c) An authorizer shall have the power to make and execute
4 contracts and all other instruments necessary or convenient for
5 the exercise of its duties and functions under this chapter.

6 (d) An authorizer may delegate its duties to officers,
7 employees, and contractors.

8 (e) Regulation by authorizers shall be limited to the
9 powers and duties set forth in this section, and shall be
10 consistent with the spirit and intent of this chapter.

11 (f) An authorizer, members of the board of an authorizer
12 acting in their official capacity, and employees or agents of an
13 authorizer are immune from civil and criminal liability with
14 respect to all activities related to a public charter school
15 authorized by that authorizer, except for any acts or omissions
16 constituting wilful misconduct. Members of the commission shall
17 be afforded the same protection afforded the members of the
18 board pursuant to section 26-35.5.

19 ~~[(g) An authorizer shall not provide technical support to~~
20 ~~a prospective charter school applicant, an applicant governing~~
21 ~~board, or a charter school it authorizes in cases in which the~~



~~1 technical support will directly and substantially impact any
2 authorizer decision related to the approval or denial of the
3 charter application or the renewal, revocation, or nonrenewal of
4 the charter contract. This subsection shall not apply to
5 technical support that an authorizer is required to provide to a
6 charter school pursuant to federal law.]"~~

7 SECTION 4. Section 302D-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§302D-13 Start-up and conversion charter schools;
10 establishment.** (a) New start-up and conversion charter schools
11 may be established pursuant to this section.

12 (b) Any community, department school, school community
13 council, group of teachers, group of teachers and
14 administrators, or nonprofit organization may submit a letter of
15 intent to an authorizer to form a charter school and establish
16 an applicant governing board. The letter of intent shall be a
17 notice provided by the applicant to the authorizer to advise the
18 authorizer that the applicant intends to complete an
19 application. All applicants who submit a letter of intent may
20 later submit an application. An applicant governing board may



1 develop a charter application pursuant to this section; provided
2 that:

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

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

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

14 (4) A nonprofit organization may:

15 (A) Establish an applicant governing board that [~~is~~
16 ~~separate from the~~] operates separately from its
17 nonprofit organization and develop a charter
18 application for a start-up or conversion charter
19 school; provided that the members of the
20 applicant governing board shall not constitute



1 the majority of the members from the nonprofit
2 organization; or

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

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

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

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

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

9 (c) The charter school application process and schedule
10 shall be determined by the authorizer[7] and shall provide for
11 and include, at a minimum, the following elements:

12 (1) The issuance and publication of [~~a request for~~
13 ~~proposals~~] an application process by the authorizer on
14 the authorizer's internet website that, at a minimum:

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

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



- 1 (C) Includes statutory criteria that will guide the
- 2 authorizer's decision to approve or deny a
- 3 charter application;
- 4 (D) States clear, appropriately detailed questions
- 5 and provides guidelines concerning the format and
- 6 content essential for applicant governing boards
- 7 to demonstrate the capacities necessary to
- 8 establish and operate a successful charter
- 9 school; and
- 10 (E) Requires charter applications to provide or
- 11 describe all essential elements, as determined by
- 12 the authorizer, of proposed school plans;
- 13 (2) The submission of a letter of intent to notify the
- 14 authorizer of the applicant's intent to apply to open
- 15 and operate a start-up charter school or to convert a
- 16 department school to a conversion charter school;
- 17 provided that a letter of intent shall not be used as
- 18 a basis for the denial of the right to submit an
- 19 application;
- 20 (3) The timely submission of a completed charter
- 21 application to the authorizer; provided that a charter



1 application for a conversion charter school shall
2 include certification and documentation that the
3 charter application was approved by a majority of the
4 votes cast by existing administrative, support, and
5 teacher personnel, and parents of students at the
6 existing department school; provided that:

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

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

18 (C) A breakdown of the number of administrative,
19 support, and teaching personnel, and parents of
20 students who constitute the existing department



1 school and the number who actually participated
2 in the vote shall be provided to the authorizer;

3 (4) The timely review of the charter application by the
4 authorizer for completeness, and notification by the
5 authorizer to the applicant governing board that the
6 charter application is complete; provided that, if the
7 authorizer determines that the application is
8 incomplete, notification by the authorizer to the
9 applicant governing board that the application is
10 incomplete, providing a detailed listing of any
11 missing elements of the application and providing a
12 reasonable opportunity for the applicant governing
13 board to cure any deficiency by providing any missing
14 elements to the authorizer;

15 (5) Upon receipt of a completed charter application, the
16 review and evaluation of the charter application by
17 qualified persons including but not limited to:

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

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



- 1 (6) Following the review and evaluation of a charter
2 application, approval or denial of the charter
3 application by the authorizer in a meeting open to the
4 public[+] and subsequent written notice to the
5 applicant; provided that, if a denial occurs, the
6 notice shall provide specific information to the
7 applicant on its appeal rights to the board, including
8 the number of days in which the applicant must file an
9 appeal with the board and where to file an appeal;
- 10 (7) A provision for a final date by which a written
11 decision to approve or deny a charter application must
12 be made by the authorizer, upon receipt of a complete
13 charter application[+], to the applicant; provided
14 that, if no written decision is provided by that date,
15 the application shall be deemed approved; and
- 16 (8) A provision that no charter school may begin operation
17 before obtaining authorizer approval of its charter
18 application and charter contract and fulfilling pre-
19 opening requirements that may be imposed by the
20 authorizer, pursuant to section 302D-14.5.



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

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

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

13 (3) [+]Recognize[+] the interests of the general public.

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

19 (f) In reviewing charter applications under this section,
20 an authorizer shall develop a schedule to approve or deny a
21 charter application by the end of the calendar year prior to the



1 opening year of the proposed charter school for purposes of
2 meeting any deadlines to request funding from the legislature;
3 provided that nothing in this section shall be construed as
4 requiring an authorizer to accept and review charter
5 applications annually.

6 (g) If a conflict between the provisions in this section
7 and other provisions in this chapter occurs, this section shall
8 control.

9 (h) If an authorizer takes any action that prohibits an
10 applicant from proceeding with an application for any reason,
11 that action shall be deemed a denial and may be appealed
12 pursuant to section 302D-15."

13 SECTION 5. Section 302D-15, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§302D-15 Appeals; charter applications, renewals, or**
16 **revocations.** (a) The board shall have the power to decide
17 appeals of decisions by an authorizer to deny the approval of a
18 charter application, deny renewal of a charter contract, or
19 revoke a charter school's charter contract. An appeal shall be
20 filed with the board within twenty-one calendar days of the
21 receipt of the notification of denial or revocation. Only a



1 party whose charter application has been denied, whose charter
2 contract renewal has been denied, or whose charter contract has
3 been revoked may initiate an appeal under this section for
4 cause. The board shall review an appeal and issue a final
5 decision within sixty calendar days of the filing of the appeal.

6 (b) The board shall serve as the final arbitrator of
7 appeals authorized by subsection (a) ~~(a)~~, and the authorizer
8 shall act in accordance with the board's decision within the
9 timeframe stated by the board or, in the absence of a timeframe,
10 a reasonable amount of time needed to comply. If an authorizer
11 fails to timely comply with the final decision of the board, the
12 board may impose a penalty on the authorizer, including imposing
13 a fine on the authorizer for every day that the authorizer is
14 not in compliance, implementing the decision and binding the
15 authorizer to the final decision, or revoking the authorizer's
16 charter authority pursuant to section 302D-11(e).

17 (c) A party shall not be entitled to a hearing before the
18 board under this section until it has exhausted all available
19 administrative remedies.

20 (d) The board shall adopt rules pursuant to chapter 91 to
21 implement this section.



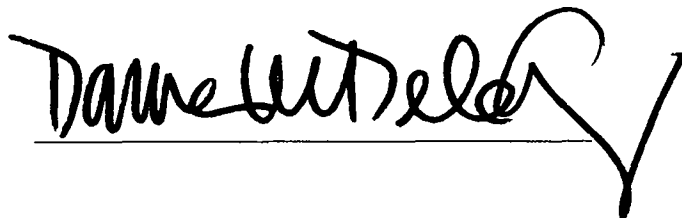
1 (e) If the board overrules a denial or revocation by an
2 authorizer, at the option of the charter school, another
3 eligible authorizer shall be designated as the authorizer for
4 ongoing operations of the charter school, with the acceptance of
5 the charter school by the new authorizer."

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.

9

INTRODUCED BY:





S.B. NO. 959

Report Title:

Public Charter Schools

Description:

Requires that members of the public charter school commission be appointed by the governor or various members of the legislature. Automatically allows public and private postsecondary institutions and county and state agencies to authorize public charter schools. Clarifies the procedures for establishment of a new start-up and conversion charter school. Repeals language prohibiting authorizers from providing technical support to prospective charter school applicants. Provides the board of education with the power to penalize public charter school authorizers.

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