

# Task Force on Charter School Governance, Accountability, and Authority

Report to the Legislature  
Pursuant to Act 130,  
Session Laws of Hawaii 2011

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## **I. BACKGROUND**

The Charter School Governance, Accountability, and Authority Task Force ("Task Force") was created pursuant to Section 7 of Act 130, Session Laws of Hawaii 2011, (S.B. 1174, S.D. 2, H.D. 1, C.D. 1)("Act 130") in response to questions and concerns raised by policy makers and advocates alike about the integrity of Hawaii's charter school governance structure and the overall strength of Hawaii's laws in establishing clear lines of authority that ensured accountability of the charter school system. A copy of Act 130 is attached as Appendix A.

Specifically, the goal of the Task Force was to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of Hawaii's charter school system, including the Board of Education, Department of Education, Charter School Administrative Office, Charter School Review Panel, and local school boards.

The Task Force was mandated to meet the following objectives:

- (1) Develop legislation or administrative rules that clearly and definitively designate the governance structure and authority between and among key charter school organizations and the Department of Education, the Board of Education, and the Office of the Governor;
- (2) Identify how the governance structure connects and relates to the state education agency and local education agency;
- (3) Identify oversight and monitoring responsibilities of the Charter School Review Panel, the Charter School Administrative Office, and local school boards and develop a process for enforcement; and
- (4) Discuss funding-related issues, including but not limited to appropriate funding levels for the Charter School Administrative Office.

## II. PROCESS AND PROCEDURE

The Task Force consisted of the following members:<sup>1</sup>

Senator Jill Tokuda, Senate;  
Representative Della Au Belatti, House of Representatives;  
Don Horner, Board of Education;  
Tammi Chun, Office of the Governor;  
Robert Campbell, Department of Education (Superintendent of Education's Designee);  
Roger McKeague, Charter School Administrative Office;  
Ruth Tschumy, Charter School Review Panel;  
Lisa Okinaga, Kamehameha Schools;  
Megan McCorriston, Ho'okako'o Corporation;  
Gene Zarro, Hawaii Charter Schools Network; and  
Steve Sullivan, Hawaii Charter Schools Network.

In order to address the specific objectives of Act 130, each meeting of the Task Force was dedicated to one of the objectives identified above. At each Task Force meeting the goal was to reach a general consensus on specific actions related to the specific objective discussed.

Members were split up into smaller working groups to discuss and investigate specific issues prior to the convening of the next regular Task Force meeting.

In discussing the specific objectives, the working groups also identified:

- (1) What is working and should be kept?
- (2) What should be considered for repeal or elimination?
- (3) What should be changed?
- (4) What additional work must be done in this area?

Working group members were often given homework assignments and asked to report back to the working group or Task Force. In

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<sup>1</sup> Act 130 provided that the Director of the State Ethics Commission ("Ethics Commission"), or the Director's designee, would serve on the Task Force. However, at the July 20, 2011 Task Force meeting, Senator Tokuda provided members of the Task Force with copies of a July 18, 2011, letter from Leslie Kondo, Executive Director Ethics Commission. In his letter, Mr. Kondo expressed that he would not be participating and that no one would be representing the Ethics Commission on the Task Force. As a result, the number of members on the Task Force was reduced from 12 to 11 members.

addition, the working groups allowed third parties with expertise or knowledge in an objective area to participate in working group discussions. Questions and comments were taken from audience members and sometimes audience members were also asked to do homework and report back to the working group.

No decision making was conducted by the working groups and the working groups reported back to the larger Task Force for further discussion on the objective and issues discussed.

The Task Force concluded each meeting with a discussion of the next objective and pertinent issues, helping to provide the working group with some clarity and direction as to how to formulate recommendations to the Task Force.

All other issues related to the identified objectives and requests by a member to revisit a previously discussed objective were placed in "The Bin" for later discussion. A list of "The Bin" items is attached as Appendix B.

The Task Force also looked at various sections of a charter school model law put forth by the National Alliance for Public Charter Schools ("Model Law") and used the Model Law as a guide. A summary of the Model Law is attached as Appendix C.

In addition, the Task Force was fortunate to have the assistance and input of the National Association of Charter School Authorizers ("NACSA") and the National Governors Association ("NGA") Center for Best Practices. NACSA provided detailed recommendations to the Task Force at its September 21, 2011, meeting. Stephanie Shipton of NGA also attended several of the Task Force meetings to provide guidance. Regular communication with Joe Nathan from Macalester College's Center for School Change was also facilitated by NGA. A copy of NACSA's Recommendations to the Task Force dated September 21, 2011, ("NACSA Report") and NACSA's power point presentation to the Task Force are attached as Appendices D and E, respectively.

The laws and experiences of other states and jurisdictions were also examined in determining what recommendations the Task Force would make to the Legislature.

The Task Force met seven times: July 20, 2011; August 10, 2011; August 31, 2011; September 21, 2011; October 12, 2011; November 2, 2011; and December 7, 2011; with working group meetings held, on average, once a week.

Tasked with broad objectives, the Task Force, made up of charter school advocates and education stakeholders, established an open and transparent process. Members of the public who attended the Task Force meetings were encouraged to provide comments and engage in the discussion.

In addition, all of the minutes from the Task Force meetings, as well as notes from all of the working group meetings, are included in the Appendices to this report. They are also posted on the Task Force's website available at <http://www.capitol.hawaii.gov/specialcommittee.aspx?comm=csgtf> (last visited on December 12, 2011).

Lastly, all of the Task Force meetings were covered by Capitol TV and Capitol TV's recordings shall serve as the official record of the Task Force. This also allowed individuals to watch the Task Force meetings via the Senate's website even if they were unable to physically attend the meetings, and archived webcasts ensured on-demand access to the proceedings.

### **III. DISCUSSION AND RECOMMENDATIONS<sup>2</sup>**

To meet the objectives of Act 130, the Task Force was ultimately guided by a statement made by NACSA: "Autonomy Plus Accountability Equals Increased Student Outcomes." As noted in NACSA's report, while Hawaii has historically been very strong on giving autonomy to charter schools, it is severely lacking in the area of accountability, resulting in serious questions about student outcomes.

As such, in order to improve student outcomes, the Task Force recommendations are based on the following overarching themes for the charter school system:

- (1) High expectations;
- (2) Increased flexibility and autonomy; and
- (3) Meaningful accountability.

#### **A. High Expectations**

##### **1. Performance-based Charter Contracts**

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<sup>2</sup> The Final Recommendations for Charter School Task Force dated December 7, 2011, ("Final Recommendations") are attached as Appendix M.

The Task Force discussed the importance of annual performance targets to keep charter schools on track and to keep the Charter School Review Panel ("CSRP") up to date on the status of the charter schools in achieving high student performance and remaining financially viable organizations.

A working group examined the Model Law language relating to performance-based charter contracts. Section 7 of the Model Law requires a charter contract between the authorizer and a charter school that is separate from the charter application. The charter contract is based on a performance framework that requires charter schools to meet annual performance targets, including student academic proficiency, academic growth, and financial performance and sustainability. It also requires charter schools and charter school authorizers to establish indicators, measures, and metrics that focus on such areas as student achievement and the organizational viability of the charter school. See Model Law Summary attached as Appendix C. See also, Minutes of the Task Force dated August 10, 2011, attached Appendix G.

In moving toward performance-based charter contracts, the Task Force identified the need to determine how current charter reauthorizations and new charter authorizations should be handled in light of the potential statutory and structural changes to the charter school system. Currently there are five schools that are set to start the reauthorization process and eight letters of intent have been submitted to the CSRP seeking new charters. The Task Force discussed the concern that new charter schools or schools currently seeking reauthorization would be receiving a "pass" on the new statutory requirement for performance-based charter contracts. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

To address this problem, NACSA recommended a one-year moratorium on reauthorizations to allow the new charter school governing structure, including performance-based charter contracts, to be implemented. Id.

In addition, the CSRP has already begun to take steps toward developing a model performance-based charter contract in consultation with NACSA, and has adjusted its reauthorization schedule to reflect the changes recommended by the Task Force. Id.

### **Recommendation #1:**

The Task Force recommends the replacement of the Detailed Implementation Plan with a separate charter application and a performance-based charter contract that requires charter schools to meet annual performance targets. Charter schools will be required to enter into a performance-based charter contract that clearly sets forth academic and operational performance indicators, measures, and metrics that will guide the authorizer's evaluation of the charter school.

The statutory language incorporating this recommendation is included in the proposed draft Charter School Omnibus Bill ("Omnibus Bill") attached hereto as Appendix O.

### **Recommendation #2:**

The Task Force recommends that charter reauthorizations be pushed back for a year or until such time performance-based contracts are ready for implementation.

The Task Force also recommends that the CSRP provide notice to new charter applicants that any Detailed Implementation Plan submitted to the CSRP for the current application cycle shall be considered a charter application and that if the applicant is authorized, a performance-based charter contract between the applicant's governing board and the authorizer shall be required.

## **2. Form and Functioning of Governing Entities within the Charter School System**

### **a. Charter School Review Panel**

The Task Force examined the Model Law for ways to strengthen the CSRP, Hawaii's sole charter school authorizer. Using the Model Law as guidance, the Task Force discussed changing the CSRP to the State Public Charter School Commission ("Commission"). The Task Force also explored making substantive changes to the role and membership of the Commission. The Task Force emphasized the need for membership to be contingent on specific qualifications rather than based on a member's constituency. These changes will help to strengthen the authorizing capabilities of the Commission. See Minutes of the Task Force dated August 10, 2011, attached as Appendix G; Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

### **Recommendation #3:**

The Task Force recommends changing the name of the Charter School Review Panel to the State Public Charter School Commission to better align with Model Law provisions. In addition, the Task Force recommends that the composition and appointment process for the State Public Charter School Commission model that of the Board of Education (pursuant to Act 5, Session Laws of Hawaii 2011) with an emphasis placed on charter school knowledge and understanding. This will ensure that the composition of the Commission is qualification-based rather than constituency-based. Not intended to exclude participation by various stakeholder groups, the intent was to ensure that the flexibility existed to appoint experienced members with the skill sets required for strong authorizing. To promote continuity among members, the Task Force also recommends staggering the terms for State Public Charter School Commission members.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

#### **b. Local School Boards**

The Task Force also examined making changes to local school boards. The Task Force recognized the importance of strong local school boards. NGA advised the Task Force that the main reason charter schools close is because they are not viable organizations with a strong governing board that understands how to run a nonprofit organization.

NACSA provided the Task Force with several recommendations on the composition, skills, and training of local school boards. These recommendations included focusing on the skills, expertise and time that local school members could bring to the table, the diversity of perspectives and opinions of members, and the level of objectivity provided by members. NACSA also recommended that charter school local school boards should always follow the best practices of non-profit governance. NACSA's complete recommendation regarding local school boards can be found in the NACSA Report attached as Appendix E.

The Task Force discussed possible changes to the configuration and appointment process of members of local school boards. The Task Force examined changing the name of the local

school boards to governing boards as suggested by the Model Law. The Task Force also discussed changing the composition of the local school boards so they would no longer be constituency-based, but rather skills-based, thus helping to ensure the school's overall viability. Other areas of Task Force discussion included:

- (1) Whether to prohibit any employee or relative of an employee from serving as chair of a governing board;
- (2) Requiring that no more than one-third of a governing board shall be employees of the charter school;
- (3) Whether, in the long term, the governing boards should consider, based on the practice of good non-profit organization, that employees of charter schools only be allowed to serve in an ex officio capacity; and
- (4) The importance of governing boards being reflective of the school community and the community at-large.

See Minutes of the Task Force dated November 2, 2011, attached as Appendix K; Final Recommendations attached as Appendix M.

#### **Recommendation #4:**

The Task Force recommends the following:

- (1) Changing the name of local school boards to governing boards to better describe their role in the charter school system;
- (2) Changing the composition and appointment process of governing boards to reflect a qualification-based membership rather than a constituency-based membership;
- (3) Requiring governing boards to have no more than thirteen members;
- (4) Requiring that no more than thirty percent of the members be employees of a charter school or relatives of an employee;
- (5) Prohibiting an employee or relative of an employee from serving as the chair of a governing board, unless otherwise permitted by the authorizer, to ensure an

independent chair who is free to make recommendations in the best interest of the organization; and

- (6) Requiring that in selecting members, consideration is given to those individuals who demonstrate an understanding of best practices of non-profit governance and who possess strong financial management, academic oversight, human resources, and fundraising experience.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

### **c. Department of Education**

The Task Force recognizes that the Department of Education is currently undergoing its own internal reorganization. It is the Task Force's hope that as the Department of Education goes through its reorganization process it will take into account the Task Force's recommended changes to the charter school system.

#### **Recommendation #5:**

The Task Force recommends that as part of the transition period necessary to implement the Task Force's recommendations, the Department of Education conduct an inventory of the Department's Full Time Employees ("FTE") who deal with charter schools in any way. The Task Force recommends that the Department work with the charter school community through the Implementation and Transition Coordinator<sup>3</sup> to determine whether some FTE positions and their job duties should be repurposed or redirected to better align these positions with the charter school system under the recommended changes of the Task Force.

### **B. Increased Flexibility and Autonomy**

#### **1. Removal of Caps on New Charter Schools**

In light of the Task Force's recommendation to require performance-based charter contracts and to strengthen the application process, the Task Force discussed whether or not to remove the cap on the number of new charter schools the CSRP may authorize. Currently, there are typically more charter slots than there are applicants. The Task Force also believes that

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<sup>3</sup> See Recommendation #16.

its recommendations to the Legislature create a stronger charter system that includes a strong authorizer, requires stronger charter school applicants, and improves charter school governance overall. These changes make the cap on the number of charter schools unnecessary because the new system and process will create a natural limit on new authorizations, and allow only high quality charters to be approved.

#### **Recommendation #6:**

The Task Force recommends removing the statutory caps on the number of charter schools that may be authorized.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

## **2. Multiple Authorizers**

The Task Force examined the possibility of establishing multiple charter school authorizers. Currently, the State has a single authorizer, the CSRP, which consists of volunteer members and does not have any support staff.

At the Task Force's meeting on September 21, 2011, NACSA recommended that the Legislature not establish an additional charter school authorizer at this time. NACSA recommended that Hawaii fix its current authorizing arrangement first and establish an additional authorizer only after the current system is functioning well. See NACSA Report attached as Appendix D. NACSA recommended a proposed timeline, including benchmarks, for establishing a second authorizer in the State. Id.

The Task Force discussed the importance of moving forward to set up a statutory framework for multiple authorizers. The Task Force concluded that NACSA's concerns would be met by requiring the Board of Education to create the necessary administrative rules and procedures to ensure highly qualified authorizers. The Commission would serve as the statewide authorizer and the Board of Education would serve as the authorizer oversight body responsible for granting authorizer status and holding authorizers accountable. Any eligible entity seeking to become an authorizer would need to prove that it has the resources and personnel capacity to carry out all authorizer responsibilities and functions. See Minutes of the Task Force dated August 10, 2011, attached as Appendix G; Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

The Task Force also discussed and analyzed sections 5 and 7 of the Model Law relating to multiple authorizers. See Summary of the Model Law attached as Appendix B; Minutes of the Task Force dated August 10, 2011, attached as Appendix G; Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

**Recommendation #7:**

The Task Force recommends the adoption of portions of sections 5 and 7 of the Model Law to:

- Grant the authority for multiple authorizers;
- Establish the process by which the Board of Education may grant authorizing authority to an eligible entity;
- Establish the process for charter transfers between authorizers; and
- Task the Board of Education with authorizer oversight responsibilities.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

**3. Governance Structure: Charter School Connection and Relationship to the State Education Agency and Local Education Agency; Role of the Charter School Administrative Office**

Hawaii's current educational system is unique from other jurisdictions in the United States because it is the only state in the nation with a single statewide school district controlled by the Board of Education. The Department of Education serves as the Local Education Agency ("LEA") and State Education Agency ("SEA") and is accountable to the Board of Education, as well as to the federal Department of Education.

The working group assigned to discuss charter school governance structure identified the following areas of concern for charter schools under the current single education agency set up:

- (1) The need for charter school transparency and access to discretionary funds when it comes to federal monies;

- (2) The need for an elevated status for charter schools when it comes to federal grant applications and proposals (e.g., consultation between the Department of Education and charter schools for grant applications and in the development of federal accountability work plans); and
- (3) Access for charter schools to federal grant opportunities that are otherwise prohibited because Hawaii's educational system has only one local education agency.

The working group discussed at length the possibility of establishing a separate LEA for charter schools in order to address these areas of concern. See Minutes of the Task Force dated September 21, 2011, attached as Appendix I. However, the Task Force learned that if Hawaii established multiple LEAs, it would lose approximately \$20 to \$23 million in federal military impact aid. Id. As such, the working group worked on a "Plan B" as an alternative to establishing a separate LEA for charter schools. Id.

Plan B would establish a Charter School Liaison and Support Office ("CSLO") within the Office of the Superintendent. The CSLO would replace the current CSAO and be responsible for the overall administration of statewide educational policy and charter school compliance with state and federal laws. The Director of the CSLO would serve as the charter school liaison within the Department of Education for the purpose of coordinating charter school involvement and/or required participation in any SEA or LEA applications and proposals for federal grant aids. Id.; see also, Minutes of the Task Force dated October 12, 2011, attached as Appendix J.

The working group also explored the option of establishing a Special Education Local Plan Area ("SELPA") or a Joint Powers Authority ("JPA") as an alternative to a Charter School LEA; however after investigating the idea further with NGA and others, the determination was made that the structure of a SELPA or JPA would not give charter schools the kind of authority or transparency they were looking to achieve. Further investigation and research into the concept of SELPA and JPA would be necessary for any future consideration. See Minutes of the Task Force dated October 12, 2011, attached as Appendix J.

The final option explored by the working group was what the Task Force deemed the "Nuclear Model." Under the Nuclear Model, a separate support office would not be established. Instead, this scenario would require the direct interaction of the Department of Education and the authorizer over access to and distribution of federal funds. It would also require direct reporting from the authorizer to the Department in meeting federal funding reporting requirements. See Nuclear Model organizational chart attached as Appendix L.

Critical to the success of the Commission and the charter schools they authorize is having appropriate staffing levels and key personnel in place. As such, the Task Force discussed redistributing the responsibilities of the CSAO to the Commission's staff. See NACSA Recommendations attached as Appendix D; NACSA's Power Point presentation to the Task Force attached as Appendix E. In looking at the recommendations of NACSA and best practices in other jurisdictions, it was determined that the Commission should have a staff consisting of an Executive Director, who would be responsible for implementing charter school laws and policies, as well as several specialists such as an Application Specialist, Finance Specialist, and Compliance Specialist. Id.

The Nuclear Model would give the Department of Education assurances for timely and accurate reporting from the charter schools as required by the federal government while providing the charter schools with a point of contact for consultation regarding federal funds. In addition, this structure clearly articulates the roles of the governing board and authorizer as they relate to the charter school, while maintaining important and appropriate connections to the Department of Education and Board of Education. Redistribution of the CSAO's duties to designated authorizer staff and the governing boards also provides charter schools with increased control and autonomy.<sup>4</sup> In addition, this option gives the charter schools the flexibility to contract with third parties for certain services.

#### **Recommendation #8:**

In order to implement the Nuclear Model discussed above, the Task Force recommends the adoption of statutory language requiring the authorizer to:

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<sup>4</sup> An organizational chart of the charter school system as envisioned by recommendations 7, 8, and 9, is attached as Appendix L.

- Serve as the point of contact between the Department of Education and a public charter school it authorizes and shall be responsible for the administration of all applicable state and federal laws;
- Ensure compliance of a public school charter it authorizes with all applicable state and federal laws, including reporting requirements, as provided in the charter school's performance contract;
- Receive applicable federal funds from the Department of Education and distribute the federal funds to the public charter school it authorizes; and
- Receive per pupil funding from the Department of Budget and Finance and distribute the funding to the public charter school it authorizes.

Based on recommendations received from both NGA and NACSA, the Task Force strongly recommends that the authorizer not provide technical support<sup>5</sup> to any charter school it authorizes.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

#### **Recommendation #9:**

The Task Force recommends that the Commission, as the statewide authorizer, have adequate staff to assist it in carrying out the requirements of Recommendation #7. Specifically, the Task Force recommends that the Commission staff consist of an Executive Director, to be hired by the Commission, as well as an Application Specialist, Accountability Specialist, Academic Performance Specialist, Compliance Specialist, Finance Specialist, Administration Specialist, and four additional administrative staff.

The specific recommended duties and functions of the Commission staff can be found in the Final Recommendations attached as Appendix M.

Given the increased responsibilities the redistribution of duties will place on charter schools and their governing boards, the Task Force further recommends that these FTE positions be a

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<sup>5</sup> Based on the recommendation of NGA, technical assistance will not be defined at this time.

line item in the budget rather than funded using a two percent lump sum of the annual charter school general fund allocation.

**Recommendation #10:**

The Task Force recommends that the duties and responsibilities of the CSAO be redistributed among other charter school stakeholders including the authorizer, authorizer staff, governing boards, Board of Education, Department of Education, and third parties.

Based on what is commonly done in other jurisdictions and national best practices, NGA assisted the Task Force in delineating which of CSAO's duties will be transferred to another entity. A complete breakdown of the CSAO duties to be transferred to other charter school entities is attached as Appendix N.

The Task Force recognizes that the closure of the CSAO and the redistribution of its duties to the Commission staff and governing boards will take time and recommends allowing the CSAO a twelve-month period to transition and to ensure there are no gaps in services at the charter school level.<sup>6</sup>

**C. Meaningful Accountability**

**1. Role and Responsibility of the Authorizer**

The Task Force discussed the role of the authorizer in ensuring the accountability and viability of charter schools. The Task Force reviewed sections 5 and 7 of the Model Law to clearly determine the role and responsibility of the authorizer, while ensuring that both the authorizer and governing boards are engaged in the process. See Minutes of the Task Force dated August 10, 2011, attached hereto as Appendix G.

**Recommendation #11:**

The Task Force recommends the adoption of relevant portions of the Model Law relating to the authorizer's powers, duties, and liabilities; principles and standards for charter authorizing; authorizer reporting to the Board of Education and the Legislature; conflicts of interest; exclusivity of authorizing functions and rights; authorizer services; authorizer oversight over charter schools and corrective

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<sup>6</sup> See Recommendation # 16.

actions; and the authorizer's responsibilities as to school closures and dissolution, as well as charter renewals, revocations, and nonrenewals.

To address charter school concerns about access to and distribution of federal funds, the authorizer's annual report to the Board of Education and the Legislature should include a breakdown of all federal funds distributed to the charter school under the authorizer's jurisdiction. The report should also contain any recommendations or concerns from the charter schools on improving access to and distribution of federal funds.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

## **2. Strengthening the Charter Application Process**

The Task Force also discussed ways to strengthen the charter application process to ensure that only strong and viable charter applicants are granted charters.

Existing law requires the CSRP to review a charter application and make the applicant aware of any deficiencies in its application. Applicants are then allowed to submit an amended application based on CSRP's recommendations. NACSA recommended that applicants not be allowed to amend their applications once submitted, but rather be required to submit strong applications upfront. See Final Recommendations attached as Appendix M.

### **Recommendation #12:**

The Task Force recommends that applicants for start-up charter schools and conversion charter schools be allowed to submit their application only once during an application cycle. Authorizers will not be required to give the applicant notice of any substantial deficiencies and applicants will not be given the opportunity to submit amended applications. Charter school applicants will still have the right to appeal the denial of a charter application to the Board of Education.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

### **3. Reporting Requirements**

As part of increasing the accountability of all stakeholders in the charter school system, the Task Force explored instituting annual reporting requirements for the Board of Education. The Task Force looked to the Model Law for specific reporting requirements. These reports will help identify the successes of charter schools and the areas of concern. These reports will have the added benefit of bringing the topic of charter schools to the forefront of the educational discussion each year. See Final Recommendations attached as Appendix M.

In addition, the Task Force discussed the need for charter schools to have a uniform system for reporting specific information to the Department of Education for the purpose of meeting federal reporting requirements. While not mandating a specific operating system and still allowing flexibility in this area, this will help to ensure that the Department of Education receives a common output of data from all charter schools to assist in making timely and accurate reports to the federal government. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

#### **Recommendation #13:**

The Task Force recommends that the Board of Education submit annual reports to the Governor, Legislature, and public on the performance of all charter schools, as well as the compliance of charter schools with all applicable state and federal laws. In addition, reports should identify the successes charter schools are experiencing so that they can be replicated in other charter schools. The reports should also identify the challenges facing the charter schools and areas needing improvement.

In light of charter schools concerns over access to and distribution of federal funds, the Task Force recommends that the Board of Education's annual report include a breakdown of all federal funds received and distributed to the charter schools. The report should also contain any recommendations or concerns from charter schools on improving access to and distribution of federal funds.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

#### **Recommendation #14:**

The Task Force recommends statutorily requiring the Board of Education to establish a uniform data reporting system to include requirements for reporting fiscal, personnel, and student data, by means of electronic transfer from charter schools to the Department of Education. Beginning with the 2012-2013 school year, all charter schools will be required to comply with the requirements of the uniform education reporting system.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

The Task Force would also request the Hawaii Charter School Network to help facilitate communications between appropriate individuals from the charter schools, the Board of Education, and the Department of Education to address this issue and identify what changes need to take place in practice and from a policy-making perspective.

#### **4. Board of Education as Final Arbitrator**

As part of the overall discussion of meaningful accountability, the Task Force discussed how concerns and disputes between charter schools, authorizers, and the Department of Education should be handled if they were unable to be resolved at the appropriate departmental level. The Task Force identified the Board of Education as the final arbitrator on charter school issues. See Minutes of the Task Force dated October 12, 2011, attached as Appendix J.

#### **Recommendation #15:**

The Task Force recommends that the Board of Education serve as the final arbitrator of any dispute between a charter school, governing board, authorizer, and the Department of Education; provided that no party shall be entitled to a hearing before the Board until it has exhausted all available administrative remedies. The Task Force further recommends that the Board of Education adopt appropriate rules and procedures to govern the hearing process.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

#### **D. Implementation and Transition**

The Task Force acknowledged that its recommendations are a significant departure from the current charter school system and a comprehensive and meaningful transition is critical to the success of a new charter school structure and system.

The Task Force discussed at length options and considerations for implementation and transition, including hiring a Transition Coordinator to assist with implementing the recommendations of the Task Force.

See Minutes of the Task Force dated November 2, 2011, attached as Appendix K; Final Recommendations attached as Appendix M.

#### **Recommendation #16:**

The Task Force recommends that the Board of Education, with guidance from NGA, draft a scope of work to contract for a Charter School Implementation and Transition Coordinator ("Transition Coordinator"), whose central responsibility shall be to facilitate the implementation of the recommendations of the Task Force. The Board of Education shall be responsible for awarding and overseeing the contract.

The Task Force further recommends that the Transition Coordinator be contracted for a period of twelve months and the contract be funded through the charter schools account established by section 302B-12(i), Hawaii Revised Statutes.

The Task Force also felt strongly that there should be an overlap in key positions as the transition occurs between the CSAO and Commission staff, but that charter schools should not be assessed more than the current two percent CSAO funding requirement during this period.

The Task Force recommends that the Transition Coordinator examine the funding of the CSAO and the authorizer staff, as well as any overlap in CSAO and authorizer staff duties during

the transition period.<sup>7</sup> In addition, it will be important that the Transition Coordinator work with CSRP and NACSA in creating sample performance-based charter contracts to assist authorizer staff, charter schools, and their governing boards.

The Task Force also recommends that as part of the implementation and transition efforts, the Transition Coordinator assist the Department of Education in identifying all FTEs within the Department of Education who work with charter schools and make recommendations for repurposing or redirecting staffing based upon the statutory and structural changes being made to the charter school system.

The Task Force's recommendation for the minimum skill set and additional scope of work requirements for the Transition Coordinator is included in the Final Recommendations attached as Appendix M.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

#### **IV. ITEMS FOR CONTINUED DISCUSSION AND NEXT STEPS**

##### **A. Items for Continued Discussion**

The Task Force recognizes the enormity of challenges facing Hawaii's charter school system. Due to the short time line available to the Task Force, and the complexity of the issues discussed, the Task Force was unable to address certain issues in great detail. The Task Force believes the following issues deserve continued discussion among charter school stakeholders:

- (1) Special education issues;
- (2) Funding, including facilities and transportation;<sup>8</sup> and
- (3) Collective bargaining.<sup>9</sup>

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<sup>7</sup> The Task Force recognizes the concern of charter schools that they may be paying twice for comparable services during the transition and that currently the CSAO provides many services that will become the responsibility of the individual governing boards after the transition.

<sup>8</sup> Funding issues require all stakeholders to participate in discussions and decision making. The Task Force believes it is important for the Chair of the Senate Committee on Ways and Means, Chair of the House Committee on Finance, Board of Education, Department of Education, a representative from the Department of Budget and Finance, and members of the charter school community to conduct separate meetings to address funding issues. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

## **B. Next Steps**

In order to implement the recommendations included in this report, the Task Force recommends the introduction of two separate bills. The first bill is a Charter School Omnibus bill that incorporates all of the statutory recommendations made by the Task Force, as well as other housekeeping amendments, including several definitional amendments.<sup>10</sup>

The second bill is focused on an implementation and transition plan to make sure that time and resources are allocated properly to ensure success of the new charter school system.

## **V. CONCLUSION**

The Task Force believes the above recommendations create a solid governance structure for Hawaii's charter school system that preserves their autonomy while establishing clear lines of authority and accountability that will foster improved student outcomes.

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<sup>9</sup> Collective bargaining is a complex issue that requires all stakeholders to participate in any discussions on this issue. As such, the Task Force believes it is prudent that the Chair of the Senate Committee on Judiciary and Labor, Chair of the House Committee on Labor and Public Employment, Attorney General, Department of Education, and representatives from the applicable labor unions hold separate meetings to discuss issues related to collective bargaining and charter school autonomy as it relates to personnel management. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

<sup>10</sup> The Task Force will be recommending a change in the definition of "charter school" to include charter schools and their governing boards in light of the recent Hawaii Intermediate Court of Appeals decision holding that a charter school's local school board as a public school and an entity of the State may not sue another entity or agency of the State. See Waters of Life Local School Board v. Charter School Review Panel, No. 30441, October 21, 2011.

# Appendix A

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# A BILL FOR AN ACT

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RELATING TO CHARTER SCHOOLS.

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

**PART I**

SECTION 1. The legislature finds that during the 2010 regular session, the legislature adopted Senate Concurrent Resolution No. 108, S.D. 2, requesting the convening of a task force to establish a consistent funding formula, process, or both, by which equitable funding to charter schools could be determined. Facilities funding for charter schools is a critically important issue, but the legislature recognizes that the establishment of a needs-based facilities funding formula is a work in progress.

The legislature further finds that as charter schools continue to become a visible component of the education system in Hawaii, it is imperative to ensure that charter schools function in an efficient and cost-effective manner.

The purpose of this Act, therefore, is to:

- (1) Require the Charter School Administrative Office to include with the budget and capital improvement projects request, a detailed explanation of the



1 formula used for needs-based facilities funding  
2 requests and a funding request breakdown by school;

3 (2) Permit charter schools to appeal a denial of  
4 reauthorization by the charter school review panel to  
5 the board of education;

6 (3) Require charter schools and their local school boards  
7 to develop internal policies and procedures consistent  
8 with ethical standards of conduct;

9 (4) Change the frequency of each charter school's  
10 evaluation to every six years from every five years  
11 after the initial evaluation; and

12 (5) Establish a task force on charter school governance,  
13 accountability, and authority to provide clarity to  
14 the relationships, responsibilities, and lines of  
15 accountability and authority among stakeholders of the  
16 charter school system.

17 SECTION 2. Section 302B-8, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19 "(b) The executive director, under the direction of the  
20 panel and in consultation with the charter schools, shall be  
21 responsible for the internal organization, operation, and  
22 management of the charter school system, including:



(1) Preparing and executing the budget and the capital improvement projects request for the charter schools, including submission of the all means of finance budget request that reflects all anticipated expenditures to the panel, the board, the governor, and the legislature; provided that, in preparing the budget request with regard to needs-based facilities funding, the executive director shall ensure that, as a budget item separate from other operating costs, the request [provides:

~~(A) Funding for projected enrollment for the next school year for each charter school;~~

~~(B) A calculation showing the per pupil funding based on the department of budget and finance's debt service appropriation for the department of education divided by the department of education's actual enrollment that school year; and~~

~~(C) That no less than seventy per cent of the amount appropriated shall be allocated by the office to start-up charter schools on a per pupil basis; provided that the funds remaining shall be~~



~~allocated to charter schools with facilities  
needs as recommended by the office and approved  
by the panel,]~~

is accompanied by a detailed explanation of the  
formula used and a funding request breakdown by  
school;

(2) Allocating annual appropriations to the charter  
schools and distribution of federal funds to charter  
schools;

(3) Complying with applicable state laws related to the  
administration of the charter schools;

(4) Preparing contracts between the charter schools and  
the department for centralized services to be provided  
by the department;

(5) Preparing contracts between the charter schools and  
other state agencies for financial or personnel  
services to be provided by the agencies to the charter  
schools;

(6) Providing independent analysis and recommendations on  
charter school issues;



(7) Representing charter schools and the charter school system in communications with the board, the governor, and the legislature;

(8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;

(9) Providing guidance and assistance to charter applicants and charter schools to enhance the completeness and accuracy of information for panel review;

(10) Assisting charter applicants and charter schools in coordinating their interactions with the panel as needed;

(11) Assisting the panel to coordinate with charter schools in panel investigations and evaluations of charter schools;

(12) Serving as the conduit to disseminate communications from the panel, the board, and the department to all charter schools;

(13) Determining charter school system needs and communicating those needs to the panel, the board, and the department;



1 (14) Establishing a dispute resolution and mediation  
2 process; and

3 (15) Upon request by one or more charter schools, assisting  
4 in the negotiation of a collective bargaining  
5 agreement with the exclusive representative of its  
6 employees."

7 **PART II**

8 SECTION 3. Section 302B-3, Hawaii Revised Statutes, is  
9 amended by amending subsection (i) to read as follows:

10 "(i) The powers and duties of the panel shall be to:

11 (1) Appoint and evaluate the executive director and  
12 approve staff and salary levels for the charter school  
13 administrative office;

14 (2) Review, approve, or deny charter applications for new  
15 charter schools in accordance with section 302B-5 for  
16 the issuance of new charters; provided that applicants  
17 that are denied a charter may appeal to the board for  
18 a final decision pursuant to section 302B-3.5;

19 (3) Review, approve, or deny significant amendments to  
20 detailed implementation plans to maximize the school's  
21 financial and academic success, long-term  
22 organizational viability, and accountability. Charter



1 schools that are denied a significant amendment to  
2 their detailed implementation plan may appeal to the  
3 board for a final decision pursuant to section 302B-  
4 3.5;

5 (4) Pursuant to section 302B-3.6, compile and submit  
6 prioritized lists of charter schools to the department  
7 and enter into necessary agreements with the  
8 department to authorize charter schools to use and  
9 occupy vacant public school facilities or portions of  
10 school facilities;

11 (5) Adopt reporting requirements for charter schools;

12 (6) Review annual self-evaluation reports from charter  
13 schools and take appropriate action;

14 (7) Adopt a clear process and rigorous organizational and  
15 educational criteria, including student achievement as  
16 a significant factor, for the authorization and  
17 reauthorization of school charters;

18 (8) Evaluate each school charter, for the purpose of  
19 determining reauthorization, no later than four years  
20 following the initial issue of a charter and every six  
21 years thereafter; provided that charter schools that



1           are denied reauthorization may appeal to the board for  
2           a final decision pursuant to section 302B-3.5;

3           (9) Evaluate any aspect of a charter school that the panel  
4           may have concerns with and take appropriate action,  
5           which may include special monitoring, temporary  
6           withholding of an allocation for noncompliance issues,  
7           probation, or charter revocation; provided that  
8           charter schools that have their charter revoked may  
9           appeal to the board for a final decision pursuant to  
10          section 302B-3.5;

11          (10) Periodically adopt improvements in the panel's  
12          monitoring and oversight of charter schools;

13          (11) Periodically adopt improvements in the office's  
14          support of charter schools and management of the  
15          charter school system;

16          (12) Review, modify, and approve charter schools' all means  
17          of finance budget, based upon criteria and an approval  
18          process established by the panel;

19          (13) Survey all charter school facilities prior to, and in  
20          preparation for, determining recommendations to  
21          allocate non-per-pupil facilities funds to charter



1 schools with facilities needs. The survey shall  
2 include, at minimum, for each charter school facility:

3 (A) The current status of the facility;

4 (B) Facilities costs, including all rents, leases,  
5 purchases, and repair and maintenance for lands  
6 and buildings;

7 (C) A prioritized list of facilities needs;

8 (D) Any capital improvement projects underway or  
9 scheduled; and

10 (E) Whether the facility is a conversion or start-up  
11 charter school, and current and projected  
12 enrollment; [and]

13 (14) Evaluate and investigate charter schools when concerns  
14 arise that necessitate the resolution or assistance  
15 with the resolution of legal, fiscal, health, safety,  
16 and other serious issues[-]; and

17 (15) Ensure that local school boards are fulfilling their  
18 oversight responsibilities pursuant to section  
19 302B-7."

20 SECTION 4. Section 302B-3.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1        "[§]302B-3.5[+] Appeals; charter school applications,  
2        reauthorizations, revocations, or detailed implementation plan  
3        amendments. The board shall have the power to decide appeals  
4        from decisions of the panel to deny the approval of a charter  
5        school application, deny reauthorization of a charter school,  
6        revoke a charter school's charter, or deny the approval of an  
7        amendment to a charter school's detailed implementation plan.  
8        An appeal shall be filed with the board within twenty-one  
9        calendar days of the receipt of the notification of denial or  
10       revocation. Only a party whose charter school application has  
11       been denied, whose reauthorization has been denied, whose  
12       charter has been revoked, or whose amendment to a detailed  
13       implementation plan has been denied may initiate an appeal under  
14       this section for cause. The board shall review an appeal and  
15       issue a final decision within sixty calendar days of the filing  
16       of the appeal. The board may adopt applicable rules and  
17       procedures pursuant to chapter 91 for implementing the appeals  
18       process."

19       SECTION 5. Section 302B-7, Hawaii Revised Statutes, is  
20       amended as follows:

21       "§302B-7 Charter school local school boards; powers and  
22       duties. (a) All local school boards, with the exception of



1 those of conversion charter schools that are managed and  
2 operated by a nonprofit organization pursuant to section  
3 302B-6(e), shall be composed of, at a minimum, one  
4 representative from each of the following participant groups:

5 (1) Principals;

6 (2) Instructional staff members selected by the school  
7 instructional staff;

8 (3) Support staff selected by the support staff of the  
9 school;

10 (4) Parents of students attending the school selected by  
11 the parents of the school;

12 (5) Student body representatives selected by the students  
13 of the school; and

14 (6) The community at large.

15 (b) No chief executive officer, chief administrative  
16 officer, executive director, or otherwise designated head of a  
17 school may serve as the chair of the local school board.

18 (c) The local school board shall be the autonomous  
19 governing body of its charter school and shall have oversight  
20 over and be responsible for the financial and academic viability  
21 of the charter school, implementation of the charter, and the  
22 independent authority to determine the organization and



1 management of the school, the curriculum, virtual education, and  
2 compliance with applicable federal and state laws. The local  
3 school board shall have the power to negotiate supplemental  
4 collective bargaining agreements with the exclusive  
5 representatives of their employees.

6 (d) Local school boards shall be exempt from chapter 103D,  
7 but shall develop internal policies and procedures for the  
8 procurement of goods, services, and construction, consistent  
9 with the goals of public accountability and public procurement  
10 practices. Charter schools are encouraged to use the provisions  
11 of chapter 103D wherever possible; provided that the use of one  
12 or more provisions of chapter 103D shall not constitute a waiver  
13 of the exemption from chapter 103D and shall not subject the  
14 charter school to any other provision of chapter 103D.

15 (e) Charter schools and their local school boards shall be  
16 exempt from the requirements of chapters 91 and 92. The local  
17 school boards shall:

18 (1) Make available the notices and agendas of public  
19 meetings:

20 (A) At a publicly accessible area in the local school  
21 board's office or the charter school



1 administrative office so as to be available for  
2 review during regular business hours; and

3 (B) On the local school board's or charter school's  
4 internet website and the charter school  
5 administrative office's internet website not less  
6 than six calendar days prior to the public  
7 meeting, unless a waiver is granted by the  
8 executive director in the case of an emergency;  
9 and

10 (2) Make available the minutes from public meetings on a  
11 timely basis ~~[in-]~~ and maintain a list of the current  
12 names and contact information of the local school  
13 board's members and officers:

14 (A) ~~[The]~~ In the local school board's office or the  
15 charter school administrative office so as to be  
16 available for review during regular business  
17 hours; and

18 (B) On the local school board's or charter school's  
19 internet website~~[r]~~ and the charter school  
20 administrative office's internet website.



1        (f) Charter schools and their local school boards shall  
2        develop internal policies and procedures consistent with ethical  
3        standards of conduct, pursuant to chapter 84.

4        [~~(f)~~] (g) The State shall afford the local school board of  
5        any charter school the same protections as the State affords the  
6        board."

7        SECTION 6. Section 302B-14, Hawaii Revised Statutes, is  
8        amended by amending subsection (b) to read as follows:

9        "(b) The panel shall conduct a multi-year evaluation of  
10       each charter school on its fourth anniversary year and every  
11       [~~five~~] six years thereafter. The panel may from time to time  
12       establish a schedule to stagger the multi-year evaluations."

13       SECTION 7. (a) There is established within the charter  
14       school administrative office for administrative purposes only, a  
15       task force on charter school governance, accountability, and  
16       authority. The purpose of the task force shall be to provide  
17       clarity to the relationships, responsibilities, and lines of  
18       accountability and authority among stakeholders of the charter  
19       school system.

20       (b) The task force shall consist of the following members:

21       (1) The chair of the senate committee on education, or the  
22       chair's designee;



- 1           (2)   The chair of the house of representatives committee on  
2           education, or the chair's designee;
- 3           (3)   A representative from the office of the governor;
- 4           (4)   The state ethics commissioner, or the commissioner's  
5           designee;
- 6           (5)   A member of the board of education;
- 7           (6)   The superintendent of education, or the  
8           superintendent's designee;
- 9           (7)   The executive director of the charter school  
10          administrative office, or the executive director's  
11          designee;
- 12          (8)   The chair of the charter school review panel, or the  
13          chair's designee;
- 14          (9)   A representative from Kamehameha Schools;
- 15          (10)   A representative from the Ho'okako'o Corporation;
- 16          (11)   The executive director of the Hawaii Charter Schools  
17          Network, or the executive director's designee; and
- 18          (12)   A representative from the Hawaii Charter Schools  
19          Network.
- 20          (c)   The chair of the senate committee on education and the  
21          chair of the house of representatives committee on education, or  
22          their designees, shall serve as co-chairs of the task force.



1 (d) The task force shall:

2 (1) Develop legislation or administrative rules that  
3 clearly and definitively designate the governance  
4 structure and authority between and among key charter  
5 school organizations and the department of education,  
6 the board of education, and the office of the  
7 governor;

8 (2) Identify how the governance structure connects and  
9 relates to the state education agency and local  
10 education agency;

11 (3) Identify oversight and monitoring responsibilities of  
12 the charter school review panel, the charter school  
13 administrative office, and the local school boards and  
14 develop a process for enforcement; and

15 (4) Discuss funding-related issues, including but not  
16 limited to appropriate funding levels for the charter  
17 school administrative office.

18 (e) The charter school administrative office shall provide  
19 administrative support, if necessary, to the task force.

20 (f) The task force shall submit a report of its findings  
21 and recommendations, including any proposed legislation, to the



1 legislature no later than twenty days prior to the convening of  
2 the regular session of 2012.

3 **PART III**

4 SECTION 8. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval.



**Report Title:**

Charter Schools; Facilities Funding Formula; Governance;  
Accountability; Task Force

**Description:**

Requires charter school budget requests for needs-based facilities funding to include a detailed explanation as to the formula used and the funding request breakdown by school. Allows charter schools to appeal denied reauthorizations to BOE. Requires charter schools and their local school boards to develop internal policies and procedures consistent with ethical standards of conduct. Requires the charter school review panel to conduct a multi-year evaluation of each charter school every six years, instead of every five. Establishes a task force to address issues on charter school governance, accountability, and authority. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



# Appendix B

# The Bin

Collective Bargaining

Sep. Financial System

Avoid  
SFSF  
situation

Configuration of CSRP/LSBs

↓ appointment process

Transition plan for schools

Model Law and Statutory Definitions

Other gov't agencies as authorizer

Chapter 92

Funding (transportation)

Facilities funding

~~Multiple~~ Multiple authorizers (NACSA)

LOCAL SCHOOL BOARDS

# Appendix C



# A New Model Law For Supporting The Growth Of High-Quality Public Charter Schools

June 2009





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## ACKNOWLEDGEMENTS

To create a model law for public charter schools that is grounded in principle, flexible enough to serve in a wide variety of state policy environments, and well-supported by empirical evidence, the National Alliance for Public Charter Schools convened a working group of individuals with deep expertise in public charter school law. The members of this working group were:

- Eileen Ahearn, Project Director, National Association of State Directors of Special Education
- Andrew Broy, Associate Superintendent, Georgia Department of Education
- Erin Dillon, Policy Analyst, Education Sector
- Mary Gifford, Director, Arizona Virtual Academy
- Jim Griffin, President, Colorado League of Charter Schools
- Katie Kelly, Chief of Staff, National Association of Charter School Authorizers
- Sara Mead, Senior Research Fellow, New America Foundation
- Colin Miller, Vice President of Policy, California Charter Schools Association
- Peter Murphy, Director of Development and Policy, New York Charter Schools Association
- Louann Bierlein Palmer, Associate Professor, Western Michigan University
- Gerard Robinson, President, Black Alliance for Educational Options
- Andy Rotherham, Co-Director, Education Sector
- Jon Schroeder, Coordinator, Education/Evolving
- Jabar Shumate, State Representative, Oklahoma House of Representatives
- Nelson Smith, President, National Alliance for Public Charter Schools
- Fernando Zulueta, President, Academica Corporation

This report was written by Todd Ziebarth, Vice President for Policy at the National Alliance for Public Charter Schools, Paul O'Neill, President and Founder of Tugboat Education Services, and Margaret Lin, President of Margaret Lin Consulting. Louann Bierlein Palmer, who was a member of the working group, also wrote the section on the "Essential Components of a Strong Public Charter School Law."

*A New Model Law For Supporting  
The Growth of High-Quality Public  
Charter Schools* was funded by  
The Joyce Foundation.

## WHY IS A NEW MODEL PUBLIC CHARTER SCHOOL LAW NEEDED?

It has been 18 years since Minnesota passed the nation's first public charter school law. The development of this landmark legislation was guided by the wisdom of a handful of policy innovators in Minnesota, such as Ted Kolderie, Joe Nathan, and Ember Reichgott Junge. Subsequent to the passage of Minnesota's statute, Kolderie developed a model public charter school law and shared it with many of the governors and legislators who would eventually pass charter legislation across the country.

In the early-1990s, the Morrison Institute for Public Policy at Arizona State University created an initial list of essential public charter school law criteria. These criteria focused on legal components which best supported the creation of autonomous public charter schools (e.g., number of schools allowed, multiple chartering authorities, automatic waiver from laws and regulations, legal and operational autonomy), and was used to rate the strength of each state's public charter school law. Later, the Center for Education Reform began using these criteria (with minor revisions) to issue specific grades for each state against a set of 10 criteria.

While these resources have been helpful in the development of public charter school policy, they were created early in the life of the public charter school movement. Supporters of public charter schools have learned much in the past decade about which ingredients in a charter law support the creation of high-quality public charter schools – and which do not. Advocates of public charter schools have learned these lessons on the ground in state capitals across the country. A growing body of research and analysis has also documented these lessons, including evaluations commissioned by state departments of education and analyses produced by education policy organizations.

Initially, for example, a law was considered “strong” if it placed few limits on how many schools could open and provided ample funding and genuine autonomy. These provisions remain important, yet we now know that effective laws must address additional challenges, such as:

- **Finding and financing a facility.** Only 14 states provide direct funding in this area, forcing charters in most states to divert substantial proportions of operating revenue into bricks and mortar.
- **Authorizing.** Although charter authorizers play a critical role in establishing high-quality public charter schools, current analyses of charter laws only scratch the surface of how to address authorizing, identifying who can authorize charters but saying nothing about whether they are funded properly or held accountable for the quality of their work.
- **Special education.** Another critical challenge for charters is special education, especially for smaller charters and those unaffiliated with networks or district authorizers – yet special education is inadequately addressed in most charter laws.

With the number of public charter schools and students steadily growing – and the body of evidence documenting their success mounting – legislative battles over charter laws are intensifying. As charter supporters fight these battles, the time is right for a new model law that supports more and better public charter schools based upon lessons learned from experience, research, and analysis.

It is important to note that a strong charter law is a necessary but insufficient factor in driving positive results for public charter schools. Experience with public charter schools across the country has shown that there are five primary ingredients of a successful public charter school environment in a state, as demonstrated by strong student results:

- Supportive laws and regulations (both what is on the books and how it is implemented);

- Quality authorizers;<sup>1</sup>
- Effective charter support organizations, such as state charter associations and resource centers;<sup>2</sup>
- Outstanding school leaders and teachers; and,
- Engaged parents and community members.

While it is critical to get the law right, it is equally critical to ensure these additional ingredients exist in a state's charter sector.

Our intent is for the new model law to be useful to the 41 jurisdictions with charter laws as well as the 10 states that have yet to enact a charter law. For a state with an existing law, our hope is that the new model law will guide their actions to strengthen it, particularly in such consistently challenging areas as facilities, authorizing, and special education. In the other 10 states, we hope that this work will serve as the foundation for enacting charter laws informed by hard-fought lessons learned in states with successful charter sectors.

The remainder of this document is organized in the following way:

- First, we present a description of the essential components for a strong public charter school law.
- Second, we provide a rationale for the key sections of the model law.
- Finally, we present proposed statutory language.

Our intent is for the new law to be useful to the 41 jurisdictions with charter laws as well as the 10 states that have yet to enact a charter law.

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<sup>1</sup> See National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing*, Chicago, IL: Author, 2007.

<sup>2</sup> See National Alliance for Public Charter Schools, *Principles and Standards for Quality Charter Support Organizations*, Washington, D.C.: Author, 2008.

# ESSENTIAL COMPONENTS OF A STRONG PUBLIC CHARTER SCHOOL LAW<sup>3</sup>

As a quick guide to the primary ingredients of a strong public charter school law, we developed the following list of the essential components of such a law.

- 1) **No Caps**, on the growth of public charter schools in a state.<sup>4</sup>
- 2) **A Variety of Public Charter Schools Allowed**, including new start-ups, public school conversions, and virtual schools.
- 3) **Multiple Authorizers Available**, including non-local school board authorizers, to which charter applicants may directly apply.
- 4) **Authorizer Accountability System Required**, whereby all authorizers must affirm interest to become an authorizer (except for a legislatively-created state public charter school commission) and participate in an authorizer reporting program based on objective data, as overseen by some state-level entity with the power to remedy.
- 5) **Adequate Authorizer Funding**, including provisions for guaranteed funding from authorizer fees, and public accountability for such expenditures.
- 6) **Transparent Charter Application, Review, and Decision-making Processes**, including comprehensive academic, operational, governance, and performance application requirements, with such applications reviewed and acted upon following professional authorizer standards.
- 7) **Comprehensive Public Charter School Monitoring and Data Collection Processes**, so that all authorizers can verify public charter school compliance with applicable law and their performance-based contracts.
- 8) **Clear Processes for Renewal, Nonrenewal, and Revocation Decisions**, including school closure and dissolution procedures to be used by all authorizers.
- 9) **Performance-Based Charter Contracts Required**, with such contracts created as separate post-application documents between authorizers and public charter schools detailing at least academic performance expectations, operational performance expectations, and school and authorizer rights and duties.
- 10) **Fiscally and Legally Autonomous Schools, with Independent Public Charter School Boards**, whereby public charter schools are created as autonomous entities with their boards having most powers granted to other traditional public school district boards.
- 11) **Clear Student Recruitment, Enrollment and Lottery Procedures**, which must be followed by all public charter schools.
- 12) **Automatic Exemptions from Many State Laws**, except for those covering health, safety, civil rights, student accountability, employee criminal history checks, open meetings, freedom of information requirements, and generally accepted accounting principles.

<sup>3</sup> These essential components of a strong public charter school law were created by Louann Bierlein Palmer, Associate Professor at Western Michigan University. Palmer also developed the original list of essential components of a strong public charter school law while she was at the Morrison Institute at Arizona State University during the early 1990s.

<sup>4</sup> The ideal state policy does not contain caps on the growth of public charter schools. While not ideal, some states have created "soft caps" that statutorily allow for annual charter growth sufficient to meet demand, which are preferable to "hard caps" on the total number of charters allowed in a state. As examples of "soft caps," California allows for 100 new public charter schools a year and D.C. allows for 20 new public charter schools a year.

- 13) **Automatic Collective Bargaining Exemption**, whereby public charter schools are exempt from any outside collective bargaining agreements, while not interfering with laws and other applicable rules protecting the rights of employees to organize and be free from discrimination.
- 14) **Educational Service Providers Allowed**, provided there is a clear performance contract between the independent public charter school board and the service provider and there are no conflicts of interest between the two entities.
- 15) **Multi-School Charter Contracts and Multi-Charter Contract Boards Allowed**, whereby an independent public charter school board may oversee multiple schools linked under a single charter contract or may hold multiple charter contracts.
- 16) **Extra-Curricular and Interscholastic Activities Eligibility and Access**, where: (a) public charter school students and employees are eligible for state- and district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs to the same extent as traditional public school students and employees; and (b) students at charters that do not provide extra-curricular and interscholastic activities have access to those activities at traditional public schools for a fee via a mutual agreement.
- 17) **Clear Identification of Special Education Responsibilities**, including clarity on which entity is the local education agency (LEA) responsible for such services and how such services are to be funded (especially for low-incident, high cost cases).
- 18) **Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding**, flowing to the school in a timely fashion and in the same amount as district schools following eligibility criteria similar to all other public schools.
- 19) **Equitable Access to Capital Funding and Facilities**, including multiple provisions such as: a per-pupil facility allowance (equal to statewide average per-pupil capital costs); facility grant and revolving loan programs; a charter school bonding authority (or access to all relevant state tax-exempt bonding authorities available to all other public schools); the right of first refusal to purchase or lease at or below fair market value a closed or unused public school facility or property; and clarity that no state or local entity may impose any facility-related requirements that are stricter than those applied to traditional public schools.
- 20) **Access to Relevant Employee Retirement Systems**, with the option to participate in a similar manner to all other public schools.

The time is right for a new model law that supports more and better public charter schools based upon lessons learned from experience, research, and analysis.

# THE RATIONALE FOR THE KEY SECTIONS OF THE NEW MODEL PUBLIC CHARTER SCHOOL LAW

This section provides the rationale for the key aspects of the new model law, organized by its major building blocks: legislative declarations; definitions; enrollment; authorizers; application process; accountability; operations and autonomy; funding; and, facilities. The discussion of these aspects of the law is intended to highlight some of the most important lessons we have learned about public charter school law over the past 18 years. For each major section, we highlight the significant provisions from the law, discuss the rationale for the language in the law, and provide pertinent state examples to further illustrate the law's provisions.

## Legislative Declarations

The model law's "Legislative Declarations" section provides the state legislature opportunities to outline the need for the state to enact a public charter school law, to present the purposes of the state's public charter schools as a whole, and to state explicitly that public charter schools are part of the state's public education system. While much of this language will look familiar to those who have been working on public charter school law, we highlight four provisions from this section below that merit particular attention.

### "As A Whole"

Most state laws list several purposes for the state's public charter schools. What is sometimes unclear is whether an individual public charter school needs to meet each one of the purposes or the state's public charter schools as a whole need to meet

all of them. To clarify the intent of these purposes (and to prevent charter opponents from hounding a particular public charter school because it only meets some of the law's purposes), the model law contains the following provision:

- "The general assembly finds and declares that the purposes of the state's public charter schools as a whole are:"

### Closing the Achievement Gap

Over the past decade or so, there has been increasing focus on closing the achievement gap between low-performing groups of students and their high-performing peers. The enactment of the No Child Left Behind (NCLB) Act in 2001 intensified this focus, especially NCLB's requirements to disaggregate student results by race and ethnicity, economic status, special education status, and English language learner status. Most charter laws, however, were enacted prior to NCLB, and the purposes of public charter schools as outlined in these laws are often silent on the very issue – closing the achievement gap – that has attracted countless school leaders, teachers, and parents into the public charter school movement. To place public charter school innovation within the larger aims of the state's public education system, and to capture the aspirations of many of the best public charter schools across the country, the model law adds the following purpose for a state's public charter schools:

- "To close achievement gaps between high-performing and low-performing groups of public school students."

### Encouraging Replication of High-Performing Charter Schools

When most charter laws were enacted, they envisioned groups of individuals banding together to start a single new public school. Over the life of the charter school movement, we have seen an increasing focus on expanding and replicating what is working in public charter schools through the creation of non-profit charter management organizations

(CMOs) and for-profit education management organizations (EMOs). In fact, as of the 2007-08 school year, nearly one-quarter of charters are managed by CMOs or EMOs (13% by CMOs and 10% by EMOs). Most charter laws have failed to adequately capture the role of high-performing charters that are replicating in their states. The model law attempts to do it in a few places. In the “Legislative Declarations” section, the model law adds the following purpose for a state’s public charter schools:

- “To encourage the replication of successful public charter schools.”

### **Charters are Part of the State’s Public Education System**

According to research conducted for the National Alliance for Public Charter Schools, only 41% of voters know that charters are public schools.<sup>5</sup> It is a misunderstanding that has significant ramifications for public charter schools, particularly regarding the charter movement’s goal of equitable public funding for public charter school students. Several states understood the importance of explicitly stating the public nature of charter schools in their initial charter laws, sometimes in anticipation of lawsuits to be filed challenging the legality of public charter schools. Such states include Colorado, Florida, and Minnesota.<sup>6</sup> The model law includes such a provision as well:

- “All public charter schools in the state established under this Act are public schools and are part of the state’s public education system. The provisions of this Act should be interpreted liberally to support the findings and purposes of this section and to advance a renewed commitment by the state to the mission, goals, and diversity of public education.”

<sup>5</sup> The Glover Park Group conducted a telephone survey of 800 Registered Voters nationwide between March 17 and March 22, 2009 for the National Alliance for Public Charter Schools. The margin of error on a sample size of 800 is +/-3.5%. The wording of the question cited here was: Do you think charter schools are public schools, private schools, religious schools, other – please specify, don’t know/not sure.

<sup>6</sup> See Colorado: CO Rev Stat § 22-30.5-102, (3). Florida: FL Stat § 1002.33, (1). Minnesota: MN Stat § 124D.10, Subd. 7.

## **Definitions**

The model law’s “Definitions” section defines the key terms used in the law. We highlight six definitions from this section below that merit particular attention.

### **Applicant**

The model law takes a liberal view of eligible applicants for a public charter school, with the understanding that there must be fair but rigorous approval, oversight, and renewal processes that will work to ensure that only those applicants with a high probability for success will be allowed to operate public charter schools. After all, receiving approval to operate a public charter school is a privilege not a right. As a result, the model law’s definition of an “applicant” would allow a wide variety of public charter schools, including new start-ups, public school conversions, and virtual schools:

- “An ‘applicant’ means any person or group that develops and submits an application for a public charter school to an authorizer.”

### **Governing Board**

The model law makes it clear that public charter schools must be autonomous entities and as such they must have an independent governing board which must sign a formal charter contract with the school’s authorizer. Even for public charter schools authorized by their local school board, a separate governing board must be created in order for there to be two formal parties to the charter contract. Specific language in the model law states:

- “A ‘governing board’ means the independent board of a public charter school that is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school’s application.”

### **Public Charter School**

Many state laws do not provide a specific definition of a public charter school. Where states do provide such definitions, they are usually brief and vague.

The most comprehensive legal definition of a public charter school is actually found in federal law via the Charter School Program (CSP).<sup>7</sup> As a way to define the essential components of public charter schools, the model law provides a modified version of the definition in the CSP that highlights such things as autonomy, independent board governance, accountability via a charter contract, and parent choice:

- “A ‘public charter school’ means a public school that:
  - Has autonomy over decisions including, but not limited to, matters concerning finance, personnel, scheduling, curriculum and instruction;
  - Is governed by an independent governing board;
  - Is established, operating, and accountable under the terms of a charter contract between the school’s board and its authorizer;
  - Is a school to which parents choose to send their children;
  - Is a school that admits students on the basis of a lottery if more students apply for admission than can be accommodated;
  - Provides a program of education that includes one or more of the following: pre-school, pre-kindergarten, any grade or grades from kindergarten through 12<sup>th</sup> grade, and adult community, continuing, and vocational education programs;
  - Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and
  - Operates under the oversight of its authorizer in accordance with its charter contract.”

### Authorizer

When most states enacted their charter laws, they gave short attention (if any at all) to charter authorizers beyond stating which entities were eligible to serve in this role. We have since learned (sometimes the hard way as in Ohio and Texas<sup>8</sup>) the critical role that autho-

rizers play in a state’s public charter school sector. From our perspective, quality authorizers are one of the primary ingredients of a successful public charter school sector in a state. Therefore, the model law gives considerable attention to the roles and responsibilities of authorizers. In the “Definitions” section, the model law defines an authorizer as follows:

- “An ‘authorizer’ means an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts.”

### Education Service Provider

A wide variety of education service providers have played important roles in opening and operating public charter schools. Just as the model law contemplates a wide variety of applicants but rigorous approval processes, it takes a liberal view of potential education service providers held accountable through contracts:

- “An ‘education service provider’ means a for-profit education management organization, non-profit charter management organization, school design provider, or any other partner entity with which a public charter school intends to contract for educational design, implementation, or comprehensive management.”

### Charter Contract

One of the essential characteristics of the public charter school concept is a fixed-term, renewable contract between a school and its authorizer. Such a contract defines the roles, powers, responsibilities, and performance expectations for the school and its authorizer. While some states explicitly require an authorizer to enter into a charter contract with a school, several state laws omit such a requirement. To make clear that schools and authorizers must

<sup>7</sup> See Elementary and Secondary Education Act, Title V, Part B, Subpart I, Section 5210, (1).

<sup>8</sup> See Alexander Russo, *A Tough Nut to Crack in Ohio: Charter Schooling in the Buckeye State*, Washington, D.C.: Progressive Policy Institute, 2005; Nelson Smith, *Texas Roundup: Charter Schooling in the Lone Star State*,

Washington, D.C.: Progressive Policy Institute, 2005; Thomas B. Fordham Institute, National Alliance for Public Charter Schools, and National Association of Charter School Authorizers, *Turning the Corner to Quality: Policy Guidelines for Strengthening Ohio’s Charter Schools*, Washington, D.C.: Authors, 2006.

enter into such contracts, the model law provides the following definition of a “charter contract”:

- “A ‘charter contract’ means a fixed-term, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.”

## Enrollment

The model law’s “Enrollment” section outlines the policies that govern enrollment in a public charter school in a state. We highlight four provisions from this section below that merit particular attention.

### Open Enrollment

As public schools, charters must be open to any student who wishes to attend the school. A public charter school should not limit admissions based on such factors as academic ability. To ensure that public charter schools are open enrollment schools, the model law contains the following two provisions:

- “A public charter school shall be open to any student residing in the state.”
- “A public charter school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.”

### Lottery

To provide all students an equally fair chance at attending a public charter school, charters must hold a lottery if student demand exceeds the supply of available seats in a school. This approach prohibits a “first come, first serve” approach to enrollment which often discriminates against students who do not have parents aggressively pursuing each and every potential school option. Instead, when a school is looking to fill 100 seats from a list of 600 enrollees, student number #600 has an equally good chance as student #1 of attending the school. The model law contains the following language for lotteries:

- “If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.”

### Limited Enrollment Preferences

While public charter schools must be open enrollment schools, they should also be allowed to provide enrollment preferences in limited circumstances. First, non-charter public schools that convert to public charter school status should be allowed to give an enrollment preference to students who live in the former attendance area of the school. Such a preference would allow the current students to remain at the school after it converts. Here is the relevant language from the model law:

- “Any non-charter public school converting partially or entirely to a public charter school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.”

Second, it should be explicit that charters are allowed to give enrollment preferences to students enrolled in the school the previous year so those students are not subject to a lottery each year. Also, since it is a high priority for some families to have each of their children attend the same school, public charter schools should be allowed to give enrollment preferences to siblings of students already enrolled in the school. Here is the relevant language from the model law:

- “A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. An enrollment preference for returning students excludes those students from entering into a lottery.”

Finally, public charter schools should be allowed to give an enrollment preference to the children of the school’s founders, governing board members, and full-time employees. Since these individuals often devote much

of their energies into starting and operating public charter schools, it is reasonable to allow a limited percentage of a school's available seats to be reserved for them, as long as it is no more than 10%. Here is the relevant language from the model law:

- “A public charter school may give enrollment preference to children of a public charter school's founders, governing board members, and full-time employees, so long as they constitute no more than 10% of the school's total student population.”

### Focus on Serving Certain Groups of Students

While public charter schools should be open enrollment schools, state law should make it explicit that a school's mission can focus on serving certain groups of students. By making such schools explicitly allowable in state law, states provide avenues for parents and educators who want to create learning environments that are tailored to the particular needs of certain groups of students. One notable example is public charter schools that serve students with disabilities. According to a recent report, 71 public charter schools across the country have been specifically designed to serve students with disabilities.<sup>9</sup> Although such schools are focused on certain groups of students, they are still open enrollment schools and do not have enrollment preferences for these groups of students. To make it explicit that such schools are permitted, the model law provides the following language:

- “This section does not preclude the formation of a public charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.”

## Authorizers

The model law breaks new ground on the authorizer front. It not only addresses the standard question of which entities should be allowed to authorize in a state, but it also tackles newer areas of state law such as authorizer powers and duties, authorizer funding, and authorizer accountability. We discuss each of these four areas below.

### Creating Choice in Authorizers: Multiple Ways to Create Multiple Authorizers

A well-designed public charter school law must allow multiple authorizers to which any group of potential charter founders can apply, so that all charter applicants have the opportunity to seek approval from a conscientious and well-motivated authorizer. The model law presents multiple approaches for creating a multiple-authorizer environment, with the understanding that the conditions and capacities within a state will determine which environment makes the most sense in that state. To create multiple authorizers, the model law provides for three things:

- Establishment of a state public charter school commission;
- Opportunity for local school boards to register as authorizers with the state's designated authorizer oversight body; and,
- Opportunity for various entities – including mayors, city councils, non-profit organizations, and public and private postsecondary institutions – to apply for authorizing ability to the state's designated authorizer oversight body.

It is important to note that some believe only existing public entities should be allowed to serve as authorizers, while others argue for the inclusion of private and non-profit entities to bring new expertise into the authorizing world. Experiences in various states with both public and non-public authorizing entities reveal that all types of authorizers *can* be successful if they meet at least three criteria: a clear desire to become an

<sup>9</sup> See Julie F. Mead, *Charter Schools Designed for Children with Disabilities: An Initial Examination of Issues and Questions Raised*, Alexandria, VA: National Association of State Directors of Special Education, 2008.

authorizer; enough political insulation to allow data-driven decisions; and, the ability to create adequate infrastructure to carry out their authorizer tasks.<sup>10</sup>

To this end, the model law envisions the inclusion of multiple entities as authorizers, all under an authorizer accountability system. Given the dynamics within a given state, the specific portfolio of authorizers may vary. For example, one state may allow local school boards and a state public charter school commission to authorize public charter schools, while another state may allow local school boards, universities, and mayors to do so.

#### *State Public Charter School Commission*

The model law establishes a special-purpose state public charter school commission with statewide chartering authority. In a growing phenomenon across the country, seven states and D.C. now have special-purpose chartering boards, with a number of other states seriously discussing the creation of such entities.<sup>11</sup> The primary advantage of such boards is that their core mission is the authorization of public charter schools. That, and only that, is what they do, allowing them to develop expertise on a tough task that is usually given inadequate attention in a state. When Colorado created its special-purpose chartering board in 2004, one of its stated purposes was to enhance public charter school authorizing in the state. According to the law, it is “the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.”<sup>12</sup>

There is no single “right way” to structure the appointment and composition of such a state public charter school commission. Particularly in the matter of appointing commission members, various approaches can produce successful results. The most practical

approach for a particular state will usually be determined by state-specific circumstances. For this reason, while the model law illustrates one possible approach to making such appointments, we recognize that variations on some specifics – such as the appointment process, number of board members, and terms of office – might make sense in some states.

Notwithstanding such potential variations, we recommend that states adhere to the following general principles and recommendations when creating a state public charter school commission:

- The commission should consist of an odd number of members to avoid tie votes. Seven or nine is a typical and practical size.
- Members should be appointed (either directly or through “advice and consent”) for staggered terms by multiple state government leaders or bodies that share responsibility for, and high interest in, the success of K-12 public education in the state. These appointing leaders or entities might include the governor, legislative leadership, the state board of education, and the state superintendent of education.
- The commission membership should be bipartisan, with no more than a simple majority of members from the same political party.
- The commission membership should include breadth of experience and expertise well-suited to the commission’s work.

In addition, in most states it would be advisable for the commission membership to reflect the geographic concentrations of population and likely concentrations of chartering activity throughout the state.

#### *Local School Boards*

To date, local school boards have been allowed to authorize often without having developed the commitment and capacity to doing the job well. To encourage local school boards to take their authorizing work seriously if they decide to do it, the model law requires them to register with the state’s designated authorizer oversight body and provide

<sup>10</sup> See Louann Bierlein Palmer, *Alternative Charter School Authorizers: Playing a Vital Role in the Charter Movement*, Washington D.C.: Progressive Policy Institute, 2006.

<sup>11</sup> The states with state chartering boards are Arizona, Colorado, Georgia, Hawaii, Idaho, South Carolina, Utah, and Washington, D.C.

<sup>12</sup> See CO Rev Stat § 22-30.5-501, (2), (a).

information in several areas, such as their charter authorizing budget and personnel.

### *Mayors, City Councils, and Public Postsecondary Institutions*

Currently, two states allow mayors or city councils to serve as authorizers, and 11 states allow public postsecondary institutions to serve in this role.<sup>13</sup> In most cases, these entities have been granted the ability to authorize by state law, without any kind of application and accountability requirements. The model law also allows the inclusion of such entities and requires them to apply to the state's designated authorizer for statewide, regional, or local chartering authority (in accordance with each entity's regular operating jurisdiction and mission). They must provide information in several areas, such as a draft or preliminary outline of the request for proposals that they would issue to solicit public charter school applicants.

### *Other Private and Non-Profit Options*

In addition to the options above, a small number of states currently allow other types of entities – such as private postsecondary institutions or nonprofit organizations – to serve as, or apply to serve as, charter authorizers.<sup>14</sup> The model law allows the inclusion of such entities, and includes language requiring public accountability and transparency for such private or non-profit institutions in all matters concerning their charter-authorizing practices and decisions. The model law requires that such entities must apply to the state's designated authorizer oversight body, and clearly demonstrate their interest in, and capacity for, authorizing schools. These requirements mean that no pre-established longevity or asset amounts

are specified in the law, allowing new single-purpose non-profit authorizers to be established.

### **Authorizer Powers and Duties**

Too often, state laws are silent or vague about authorizer powers and duties. Given that charter authorizing is still such a new and difficult task within K-12 public education, it is critical that state laws provide clarity regarding the roles and responsibilities of authorizers. To do so, the model law provides the following language:

- “Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:
  - Soliciting and evaluating charter applications;
  - Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
  - Declining to approve weak or inadequate charter applications;
  - Negotiating and executing sound charter contracts with each approved public charter school;
  - Monitoring, in accordance with charter contract terms, the academic and fiscal performance and legal compliance of public charter schools; and
  - Determining whether each charter contract merits renewal, nonrenewal, or revocation.”

### **Authorizer Funding: Developing a Statewide Formula**

In two studies analyzing authorizing quality across the country the Thomas B. Fordham Institute found that authorizers often lack sufficient fiscal resources to fulfill their responsibilities professionally.<sup>15</sup> Authorizer funding structures generally fall into three categories: fees retained from authorized public charter schools; budget allocation from parent organization (such as a university); and, state or local budget appropriation.

<sup>13</sup> The two states that allow mayors or city councils to serve as authorizers are Indiana (the Indianapolis mayor only) and Wisconsin (the Milwaukee common council only). The 11 states that allow public postsecondary institutions to serve as authorizers are Florida (state universities for lab schools only and community college district boards of trustees for charter technical career centers only), Indiana, Michigan, Minnesota, Missouri (only in the two districts where charters are permitted – Kansas City and St. Louis), Nevada, New York, North Carolina, Ohio, Oklahoma (only in the 13 districts where charters are permitted), and Wisconsin (only in Milwaukee and Racine).

<sup>14</sup> The two states that allow private postsecondary institutions to serve as charter authorizers are Minnesota and Missouri. The two states that allow non-profit organizations to serve as charter authorizers are Minnesota and Ohio.

<sup>15</sup> See Louann Bierlein Palmer and Rebecca Gau, *Charter School Authorizing: Are States Making the Grade?*, Washington, D.C.: Thomas B. Fordham Institute, 2003; Rebecca Gau, *Trends in Charter School Authorizing*, Washington, D.C.: Thomas B. Fordham Institute, 2006.

Similar to the practice in 14 states, the model law allows an authorizer to retain a percentage or portion of revenue from each school it charters.<sup>16</sup> There is no single formula for authorizer funding that is “the best” for every state. The determination of an adequate, efficient, and well-working formula for authorizer funding will depend on conditions in each state, including the variety and preexisting financial capacities of authorizers in the state. Below are a few principles and tips that guided the model law’s provisions on authorizer funding:

- The funding formula should be set by the state and apply uniformly to all authorizers in the state. Authorizers should not be permitted to offer “cut-rate” or “below-market” oversight fees to public charter schools, thereby creating an environment in which public charter schools seek out the lowest-cost instead of the highest-quality or best-fitting authorizer.
- To ensure efficient and well-directed use of tax dollars, the state’s designed authorizer oversight body should periodically review and, if warranted by the actual costs of authorizing (as reported annually to the state), adjust the authorizer funding formula or scale. Charter authorizing should be neither a financial burden nor a “cash cow” for authorizers. The funding formula should provide adequate funding for authorizers to fulfill the responsibilities of quality authorizing in accordance with the charter law, but should not give authorizers a financial incentive to pursue volume chartering at the possible expense of *quality* chartering.
- Three percent of public charter school per-pupil funding is generally regarded as adequate funding for authorizers in most states, particularly where separate start-up funding is allocated for the establishment of new authorizers like a statewide commission. In addition, once an authorizer has chartered schools for a few years and oversees a “critical mass” of charters, it might be able to continue authorizing effectively with a lower-

percentage fee (because it is beyond start-up and also may have achieved some economies of scale) until the point where the number of schools it authorizes increases costs on a per-school basis. Such a determination should be made by the state’s designated authorizer oversight body based on several consecutive years of financial data from all authorizers in the state. If the data warrant, the state’s designated authorizer oversight body could, for example, establish a sliding scale that provides for authorizers to receive a higher-percentage fee (not to exceed three percent of public charter school per-pupil dollars) in their first three years of authorizing, with the percentage decreasing thereafter.

### Authorizer Accountability

One of the principles of the model law is that all authorizers should be held accountable for their work. The model law establishes accountability in two ways. First, the model law requires each authorizer to submit to the state’s designated authorizer oversight body and the legislature an annual report that includes the following items:

- The authorizer’s strategic vision for chartering and progress toward achieving that vision;
- The academic and financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in the state’s Public Charter Schools Act;
- The status of the authorizer’s public charter school portfolio, identifying all public charter schools in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;
- The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer’s operating costs and expenses as detailed through annual audited financial statements that conform with Generally Accepted Accounting Principles; and

<sup>16</sup> See National Association of Charter School Authorizers, *Dollars and Sense: Funding Authorizers Responsibly*, Chicago, IL: Author, 2009.

- The services purchased from the authorizer by the public charter schools under its purview, including an itemized accounting of the actual costs of these services.

Second, the model law requires that each authorizer's performance be reviewed by the state's designated authorizer oversight body to ensure adherence to the charter law as well as quality performance. The model law allows the state's designated authorizer oversight body to conduct a special review of an authorizer for persistently unsatisfactory performance of the authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances. As a result of such a review, the state's designated authorizer oversight body must notify an authorizer of identified problems and give the authorizer reasonable opportunity to respond and remedy the problems. If the authorizer fails to do so, the state's designated authorizer oversight body may sanction the authorizer, which can include the termination of the authorizer's chartering authority.

The key question is which entity is best-positioned and most competent and trustworthy in a state to serve this "authorizer oversight" function. It is highly unlikely that the answer will be the same in every state, which is one of the challenges in writing a model law. One size does not fit all.

The designated entity for authorizer oversight must be committed to the success of public charter schools and authorizers in the state as well as to the successful implementation of chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing. In some states, it may make the most sense for lawmakers to designate the state board of education or the state department of education as the state's designated authorizer oversight body. These entities oversee all public education in a state, and are sometimes positioned well to oversee the work of charter authorizers.

Where state boards and departments of education are already serving as authorizers themselves or have a track record of being unsupportive or ambivalent toward public charter schools, lawmakers should designate another entity to serve as the state's designated authorizer oversight body. One option is to create a special legislative or governor's office of charter authorizer oversight, similar to other special legislative or governor's offices relating to public education. Another option is to designate a university to serve this role.

As practical conditions and circumstances may vary from state to state, lawmakers should carefully consider where to vest ultimate statewide authority over public charter school authorizers. The best choice for each state should be based on the long-term best interests of the state's public charter schools and students, rather than short-term, temporary, or political circumstances.

## Application Process

The model law also breaks new ground in the section on the charter application process, particularly by requiring authorizers to issue a request for proposals at the front end of the process. We discuss three areas from this section below.

### Request for Proposals

Too often, authorizers implement a charter application process without reflecting on how they can use chartering strategically to meet the most pressing educational challenges in their communities. And too many authorizers, even years into their role, approve charters without clear processes for holding them accountable.

To solicit, encourage, and guide the development of quality public charter school applications, the model law requires authorizers to issue and broadly publicize a request for proposals (RFP) that contains the following:

- The authorizer's strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that help at-risk students. While these preferences should guide an authorizer's chartering decisions, authorizers should remain open to bold new ideas that show promise for improving public education in a particular community.
- The performance framework that the authorizer has developed for public charter school oversight and evaluation.
- The criteria that will guide the authorizer's decision to approve or deny a charter application.
- Clear, appropriately detailed questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful public charter school.
- The essential elements of the charter application.
- Specific requirements for conversion public charter schools, virtual public charter schools, public charter school governing boards seeking to contract with an education service provider, and public charter school governing boards currently operating one or more schools in the state or the nation.
- A statewide timeline for charter approval or denial decisions annually published by the state's designated authorizer oversight body which shall apply to all authorizers in the state.
- A thorough evaluation of each written charter application, an in-person interview with the applicant group, and an opportunity in a public forum for local residents to learn about and provide input on each application.
- Approval guidelines that include the following:
  - Grant charters only to applicants that have demonstrated competence in each element of the authorizer's published approval criteria and are likely to open and operate a successful public charter school;
  - Base decisions on documented evidence collected through the application review process; and,
  - Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest or any appearance thereof.
- The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's governing board. For any charter denial, the authorizer shall clearly state, for public record, its reasons for denial.

### Application Decision-making Process

State laws usually address authorizers' decision-making processes for charter applications through one of two approaches. The first approach treats the process rather vaguely (or not at all in the case of Maryland), leaving much discretion to authorizers for creating and implementing their own application process. The second approach provides some specifics about the process, but creates a situation where authorizers feel compelled to approve charter applications because the applicants have simply complied with the application submission requirements in the law.

The model law offers a third approach that provides some specifics about certain items, but also makes clear that the authorizer has discretion to make the appropriate call about charter applications within the bounds of certain principles and standards. The key aspects of the model law's approach include:

### Charter Contracts

As mentioned earlier, one of the essential characteristics of the public charter school concept is a fixed-term, renewable contract between a school and its authorizer. Such a contract defines the roles, powers, responsibilities, and performance expectations for the school and its authorizer. While some states explicitly require authorizers to enter into charter contracts with public charter schools, other state laws do not. To make clear that schools and authorizers must enter into such contracts, the model law provides the following language:

- "Within [INSERT NUMBER OF DAYS] of approval of a charter application, the authorizer and the governing board of the approved public charter school shall execute a charter contract that clearly

sets forth the academic and operational performance expectations and measures by which the public charter school will be judged and the administrative relationship between the authorizer and public charter school, including each party's rights and duties charter."

Even in those states that require charter contracts, it is not always clear that a charter contract must be created as a separate document from the charter application. The purposes of the charter application are to present the proposed public charter school's academic and operational vision and plans, demonstrate the applicant's capacities to execute the proposed vision and plans, and provide the authorizer a clear basis for assessing the applicant's plans and capacities, not to specifically define the roles, powers, responsibilities, and performance expectations for the school and its authorizer. To make clear that schools and authorizers must enter into such contracts as separate documents from charter applications, the model law provides the following provision:

- "An approved charter application shall not serve as the school's charter contract."

Lastly, most state laws are still silent on the virtual public charter schools issue. While we believe most state law provisions relevant for bricks-and-mortar public charter schools are equally relevant to virtual public charter schools, we know state laws must account for the unique environments of virtual public charter schools in a few places, including the charter contracts section. The model law includes the following language about virtual public charter school contracts:

- "The charter contract for a virtual public charter school shall include description and agreement regarding the methods by which the school will:
  - Monitor and verify full-time student enrollment, student participation in a full course load, credit accrual, and course completion;
  - Monitor and verify student progress and performance in each course through regular, proctored assessments and submissions of coursework;

- Conduct parent-teacher conferences; and
- Administer state-required assessments to all students in a proctored setting."

## Accountability

The model law also breaks new ground in the section on accountability, particularly by requiring authorizers to develop performance frameworks as tools to hold public charter schools accountable. We discuss four areas from this section below.

### Performance Framework

Most of the best accountability work being done across the country has been created in practice by charter authorizers rather than in state law.<sup>17</sup> Notable examples include the work of the Chicago Public Schools, the District of Columbia Public Charter School Board, the Indianapolis Mayor's Office, and the State University of New York.<sup>18</sup> These entities and others have developed clear academic and operational performance goals and objectives with each of their public charter schools that serve as the basis for holding their schools accountable.

Up to now, charter supporters have struggled in translating such effective practices into state law to ensure wide adoption by authorizers throughout a state. Some charter supporters are understandably concerned about over-regulating the charter accountability process in state law, taking away authorizer discretion over complex decisions about school renewals, revocations, and non-renewals. Others are concerned that

<sup>17</sup> See U.S. Department of Education, Office of Innovation and Improvement, *Supporting Charter School Excellence Through Quality Authorizing*, Washington, D.C.: Author, 2007.

<sup>18</sup> See Robin J. Lake and Lydia Rainey, *Chasing the Blues Away: Charter Schools Scale Up in Chicago*, Washington, D.C.: Progressive Policy Institute, 2005; Government Accountability Office, *Charter Schools: Oversight Practices in the District of Columbia*, Washington, D.C.: Author, 2005; Government Accountability Office, *D.C. Charter Schools: Strengthening Monitoring and Process When Schools Close Could Improve Accountability and Ease Student Transitions*, Washington, D.C.: Author, 2005; Bryan C. Hassel, *Fast Break in Indianapolis: A New Approach to Charter Schooling*, Washington, D.C.: Progressive Policy Institute, 2004; Robin J. Lake, *Seeds of Change in the Big Apple: Charter Schooling in New York City*, Washington, D.C.: Progressive Policy Institute, 2004.

district authorizers would abuse any such accountability requirements in a manner to squash their public charter school. Notwithstanding these concerns, it is safe to say that the lack of a sound state law performance framework has allowed too many authorizers to take a pass on creating fair and rigorous accountability systems for their public charter schools.

The model law plows some new ground by including a section regarding performance frameworks that provides some specifics about certain items, but also makes clear that the authorizer has discretion to make the appropriate call about charter applications within the bounds of certain principles and standards. The key aspects of the model law's approach include:<sup>19</sup>

- Authorizers are required to base the performance provisions of the charter contract on a performance framework that includes at a minimum:
  - Student academic proficiency;
  - Student academic growth;
  - Achievement gaps in both proficiency and growth between major student subgroups;
  - Attendance;
  - Recurrent enrollment from year to year;
  - Postsecondary readiness (for high schools);
  - Financial performance and sustainability; and
  - Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.
- Public charter schools are required to set annual performance targets in conjunction with their authorizers.
- All student performance data must be disaggregated by major student subgroups.
- Multiple schools operating under a single charter

contract or overseen by a single governing board must report their performance as separate, individual schools, and each school must be held independently accountable for its performance.

### Ongoing Oversight and Corrective Actions

It is important that authorizers provide adequate oversight of their public charter schools and have the authority to sanction public charter schools that are not performing well but do not merit immediate closure. Most state laws are relatively silent on these matters. As a result, authorizers may provide inadequate oversight of their schools or take inappropriate steps that encroach on their schools' operational autonomy.<sup>20</sup> Furthermore, authorizers are sometimes hesitant to sanction low-performing charters because they claim not to have the clear authority to do so. To ensure that authorizers provide adequate oversight and have the ability to sanction low-performing public charter schools, the model law provides the following provisions:

- “An authorizer shall continually monitor the performance and legal compliance of the public charter school it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this Act, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to public charter schools.”
- “Each authorizer shall annually publish and provide, as part of its annual report to the state's designated authorizer oversight body, a performance report for each public charter school it oversees, in accordance with the

<sup>19</sup> The model law's performance framework and minimum data elements are drawn from the recommendations of the Charter School Quality Consortium, a national leadership project funded by the U.S. Department of Education. This project convened two national Consensus Panels to develop a two-part performance framework to inform and improve evaluation of charter school academic and operational quality across the states. The complete framework and recommendations of the Quality Consortium and Consensus Panels are available in two reports, *A Framework for Academic Quality* and *A Framework for Operational Quality*, available at [www.publiccharters.org](http://www.publiccharters.org).

<sup>20</sup> See Louann Bierlein Palmer and Rebecca Gau, *Charter School Authorizing: Are States Making the Grade?*, Washington, D.C.: Thomas B. Fordham Institute, 2003; Rebecca Gau, *Trends in Charter School Authorizing*, Washington, D.C.: Thomas B. Fordham Institute, 2006.

performance framework set forth in the charter contract and Section V, (7) of this Act. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.”

- “In the event that a public charter school’s performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation timeframes will apply.”
- “Every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified timeframe.”

### **Renewals, Revocations, and Non-renewals**

Often overlooked in state laws are charter renewals, revocations, and non-renewals. Similar to the model law’s language for the application process, its language for renewals, revocations, and non-renewals provides some specifics about certain items, but also makes clear that the authorizer has discretion to make the appropriate call about charter applications within the bounds of certain principles and standards. The key aspects of the model law’s approach include:

- A charter contract may be renewed for successive five-year terms, although authorizers may vary the term based on the performance, demonstrated capacities, and particular circumstances of each public charter school and may grant renewal with specific conditions for necessary improvements to a public charter school.
- Authorizers must issue a public charter school performance report and charter renewal application guidance to eligible public charter schools.
- In making charter renewal decisions, authorizers must ground their decisions in evidence of the school’s performance, ensure that data used in making renewal decisions are available to the school and the public, and provide a public report summarizing the evidence basis for each decision.
- Authorizers may revoke or not renew a charter contract if a school does any of the following or otherwise fails to comply with the provisions of this Act:
  - Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under this Act or the charter contract;
  - Fails to meet or make sufficient progress toward the performance expectations set forth in the charter contract;
  - Fails to meet generally accepted standards of fiscal management; or,
  - Substantially violates any material provision of law from which the public charter school was not exempted.
- Authorizers must develop revocation and non-renewal processes that:
  - Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure;
  - Allow the charter holders a reasonable amount of time in which to prepare a response;
  - Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;
  - Allow the charter holders access to representation by counsel and to call witnesses on their behalf;
  - Permit the recording of such proceedings; and
  - After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter holders.

- Authorizers must develop a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this Act.

### Transfers

In some situations, it makes sense for a public charter school to transfer its contract from one authorizer to another before the expiration of its term, especially when its current authorizer has decided that it no longer has the commitment or capacity to effectively perform its authorizing duties. However, there are other situations in which it should be impermissible – for example, when a low-performing public charter school facing probation or closure from a high-quality authorizer seeks to transfer its charter to a less-exacting authorizer that will not place it on probation or close the school. Understanding that it is difficult to make hard-and-fast rules about when transfers should be allowed, the model law addresses the transfer issue in the following way:

- “Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the [INSERT NAME OF STATE’S AUTHORIZER OVERSIGHT BODY] by a public charter school or its authorizer. The [INSERT NAME OF STATE’S AUTHORIZER OVERSIGHT BODY] shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school’s students.”

## Operations and Autonomy

The model law’s “Operations and Autonomy” section addresses several issues critical to the daily functioning of public charter schools. We highlight nine issues that merit particular attention.

### Automatic Waivers

School-level flexibility is one of the core principles of public charter schooling. To provide public charter schools with needed autonomy, states and districts waive many of the state and local laws, rules, and regulations that burden traditional public schools. Generally, there are two approaches that state charter laws take to waivers. In 16 states, public charter schools apply to their local school boards or state boards of education for waivers of state and local laws, rules, and regulations. This approach is typically onerous for the schools, and makes it difficult for public charter schools to obtain the type of flexibility that is needed to develop unique and innovative programs.

A far better approach is found in 24 states and D.C., where the charter statute provides an automatic waiver from most state and local laws, rules, and regulations. Such an approach allows for greater flexibility within public charter schools and invites a greater number of charter applications with more innovative programs. The model law provides an automatic waiver to public charter schools via the following language:

- “Except as provided in this Act, a public charter school shall not be subject to the state’s education statutes or any state or local rule, regulation, policy, or procedure relating to non-charter public schools within an applicable local school district regardless of whether such rule, regulation, policy, or procedure is established by the local school board, the state board of education, or the state department of education.”

### Multiple Schools on One Charter Contract and Multiple Charter Contracts for One Board

The charter movement has created a major opportunity for rapid improvement in the performance of public schooling by scaling up successful models launched at a single school. While replication is challenging, it has proven to be a more effective and efficient way of increasing the number of high-quality public school options available in a community as

compared to imposing “effective practices” on a school that is chronically failing.

When states first enacted charter laws, they envisioned organizations opening and operating individual schools, not multiple schools. To better support the significant amount of replication activity in the charter sector, the model law contains provisions allowing for the creation of multiple schools under a single charter contract, and also allows an effective governing board to hold multiple charter contracts:

- “A charter contract may consist of one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each public charter school that is part of a charter contract shall be separate and distinct from any others.”
- “A single governing board may hold one or more charter contracts. Each public charter school that is part of a charter contract shall be separate and distinct from any others.”

Such arrangements provide a high degree of flexibility and minimize administrative restrictions on the expansion of successful programs. It is important to note that authorizers must play a strong role in these cases to ensure that only effective governance models and high performing programs are rewarded with replication.

### Local Educational Agency Status

The term “local educational agency” or “LEA” is a creation of federal law. LEA status is particularly significant in relation to federal (and state) categorical funding streams, such as Title I and the Individuals with Disabilities Education Act.

#### *Charters as Their Own LEAs*

Some states treat public charter schools as their own LEAs. There are two primary advantages to this approach:

- State and federal categorical funding flows directly from the state department of education to public charter schools. There is no middleman,

such as a state charter authorizer or a local school district, to take a chunk of the funding or slow down the funding flow.

- Public charter schools retain significant autonomy over resource allocation. Because there is no middleman for state and federal categorical dollars, charters have maximum control over how such funding is spent.

The two major disadvantages to this approach are:

- Being an LEA can be hugely burdensome and costly. Individual public charter schools are responsible for applying to the various categorical programs and for detailed reporting about how they spend their program funds. These are not small, simple programs, but are actually some of the most heavily regulated and complex programs in public education. Furthermore, public charter schools that are their own LEAs are responsible for covering the costs of special education services to eligible students without the economies of scale that resides in school district LEAs.
- Public charter schools are often isolated from existing state and local expertise in navigating application, delivery, and reporting requirements for categorical programs.

One variation on this approach is for schools that are their own LEAs to join in special education cooperatives and other arrangements that mitigate the burden of paperwork and staffing on individual schools.

#### *Charters as Part of Other LEAs*

Some states treat public charter schools as part of other LEAs, such as school district LEAs or statewide LEAs. There are two primary advantages to this approach:

- Public charter schools are able to focus their energies on their core work. In this arrangement, the school district or statewide LEA focuses on ensuring that charters are receiving the state and federal funds to which they are entitled, while the charters focus on using those funds to deliver a high-quality education.

- Local districts have experience as an LEA and have developed expertise in navigating state and federal bureaucracies. Such experience and expertise could benefit public charter schools with many issues on their plate, particularly in their start-up phase.

The two major disadvantages to this approach are:

- This approach adds another layer between the flow of dollars from SEAs to public charter schools. In this situation, the dollars must flow from the SEA to the school district or statewide LEA, which then distributes them to individual public charter schools. Too often, these dollars do not flow to public charter schools in a timely way, resulting in significant problems for charters.
- There is the potential of impinging on public charter schools' autonomy, especially for school district LEAs that focus on creating more bureaucratic mechanisms to carry out its work. While local districts have experience and expertise as an LEA, their funding procedures, services, and reporting processes are usually designed for schools that do not have the unique mixture of autonomy and accountability found in charters – and often are uneven in terms of quality. It may be tough for districts to fit charters into their existing procedures in a way that is respectful of the charter concept.

The model law does not take a position on whether it is preferable for a public charter school to serve as its own LEA or not because there is no widely accepted best practice in this area. The model law does offer alternative provisions for states that elect to designate public charter schools as their own LEAs and those that make them part of school district or statewide LEAs. Whichever approach a state takes, it is essential that the ramifications of LEA status of charter schools are understood well by those creating or revising a state public charter school law and that LEA status is clearly stated and factored in throughout the law.

## Special Education

Public charter school responsibilities with regard to special education depend to a great extent on their LEA status. Because the model law offers two options for LEA status (charters as their own LEAs vs. charters as part of school district or statewide LEAs), the model law also offers two options for how special education is handled by public charter schools in a state. The following language is applicable in states where *public charter schools are their own LEAs*:

- “A public charter school shall function as a Local Educational Agency (“LEA”). A public charter school shall be responsible for meeting the requirements of LEAs under applicable federal, state, and local laws, including those relating to special education. LEA status shall not preclude a public charter school from developing partnerships with districts for services, resources, and programs by mutual agreement or formal contract.”
- “A public charter school shall have primary responsibility for special education at the school, including identification and service provision. It shall be responsible for meeting the needs of enrolled students with disabilities. In instances where a student’s individualized education program team determines that a student’s needs are so profound that they cannot be met in the public charter school and that the public charter school cannot provide a free, appropriate public education to that student, the student’s district of residence shall place the student in a more appropriate setting.”<sup>21</sup>

The following language is applicable in states where *public charter schools are part of school district or statewide LEAs*:

- “The [INSERT NAME OF ENTITY] of a public charter school is the public charter school’s Local Educational Agency (“LEA”). A public charter school is a school within that LEA.”

<sup>21</sup> For state examples of this approach, see MA 603 CMR 28.03(4)(i)(1)(i-iii) and NJ Rev Stat § 18A:36A-11(b).

- “The [INSERT NAME OF ENTITY] retains responsibility for special education and shall serve students in public charter schools in a manner consistent with LEA obligations under applicable federal, state, and local law.”

### Contracting with Education Service Providers

In addition to addressing education service providers in the “Definitions” and “Application Process” sections, the model law also includes a provision in the “Operations and Autonomy” section that makes it clear that public charter schools may contract with education service providers so long as the school’s governing board retains oversight authority over the school. The model law states that a public charter school has the power:

- “To contract with an education service provider for the management and operation of the public charter school so long as the school’s governing board retains oversight authority over the school.”

### Teacher Qualifications

Public charter schools are required to comply with the No Child Left Behind (NCLB) Act’s “highly qualified” teacher requirements, which are as follows:

- Teachers must hold a bachelor’s degree;
- Teachers must obtain full state certification, which can be “alternative certification”; and,
- Teachers must demonstrate subject-matter competency in the core academic subjects taught.

NCLB explicitly defers to state charter law regarding certification requirements. If a state does not require any charter teachers to be certified, NCLB does not impose that additional mandate. Even in these situations, though, the other two aspects of NCLB’s highly qualified requirements apply.

Because of the lack of a strong empirical connection between teacher certification and student achievement,<sup>22</sup> the model law holds public

charter schools accountable for compliance with NCLB’s highly qualified teacher obligations, but it takes advantage of the flexibilities in the federal law regarding state teacher certification:

- “Public charter schools shall comply with applicable federal laws, rules, and regulations regarding the qualification of teachers and other instructional staff. In accordance with Section VIII, (1), (d), teachers in public charter schools shall be exempt from state teacher certification requirements.”

### Collective Bargaining

Eighteen states currently require some or all public charter schools to be bound by the district collective bargaining agreements or personnel policies. These agreements and policies are often a significant constraint on school autonomy, and usually fly in the face of the core charter principle of school level flexibility. In order to promote autonomy of school leaders and teachers, the model law provides an automatic collective bargaining exemption whereby public charter school employees cannot be required to be members of any existing collective bargaining agreement, while prohibiting school leaders from interfering with laws or the rights of public charter school employees to organize:

- “Public charter school employees cannot be required to be members of any existing collective bargaining agreement between a school district and its employees. A public charter school may not interfere, however, with laws and rules protecting the rights of employees to organize and be free from discrimination.”

### Access to State Retirement and Other Benefits Programs

State laws vary in how they address public charter school employee access to state retirement and other benefits programs. Some states allow charter employee access to these systems, but don’t require them to participate. Others require charter employees to participate. Still others prohibit charter employees

22 Education Commission of the States, *Eight Questions on Teacher Licensure*

and Effectiveness: What Does the Research Say?, Denver, CO: Author, 2005.

from accessing these systems.

Although some public charter schools will choose to provide these benefits through other mechanisms for cost or other reasons, it is important that charters, as public schools, have the same access to these systems as other public schools. To create a level playing field in terms of retirement and other benefits programs, the model law allows public charter schools to participate in state retirement and benefits programs:

- “Employees in public charter schools are eligible for participation in retirement and other benefits programs of the state, if the public charter school chooses to participate.”

### **Extra-Curricular and Interscholastic Activities Eligibility and Access**

Most state laws are silent regarding extra-curricular and interscholastic activities eligibility and access for public charter school students and employees. To provide some clarity in this area, the model law states that public charter school students and employees are eligible for state- or district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs to the same extent as traditional public schools. The model also provides that students at charters that do not provide extra-curricular and interscholastic activities have access to those activities at traditional public schools for a fee via a mutual agreement.

## **Funding**

The 41 jurisdictions with public charter school laws vary greatly in how they fund public charter schools. While their approaches vary, most states share one commonality: They usually provide significantly less funding to public charter schools as compared to traditional public schools. In fact, a 2005 study found that public charter schools receive 78% of the dollars that flow to traditional public schools.<sup>23</sup>

The model law provides three options for how states should fund public charter schools based upon the flow of funds for public charter schools:

- In the first option, funding flows from the *state to school districts to public charter schools*. This option is modeled on the approach in New York with some variations. The advantage of this approach is that it is relatively easy to integrate charters into the existing funding system. By sending the money through school districts, however, states are providing a tangible reminder of the movement of dollars from districts to public charter schools, which can be problematic – particularly when the charters are authorized by non-district entities.
- In the second option, funding flows from the *state directly to public charter schools*. This option is modeled on the approach in Minnesota with some variations. The main advantage of this option is that it eliminates the middle man between states and schools. As a result, schools will likely receive their funds in a timely manner. With this approach, however, it can be more challenging for the state to figure out how to fold charters into the existing funding system for school districts.
- In the third option, funding flows from the *state to authorizers to public charter schools*. This option is modeled on the approach in Colorado with some variations. While it is relatively easy to integrate district-authorized charters into the existing funding system, it can be more of a challenge for charters authorized by non-district entities.

The key principles shaping the statutory language for each option in the model law are as follows:

- **Operational Funding.** Operational funding for public charter schools should be statutorily driven, clear, free from interference or an annual, separate line item appropriation, and in the same amount to district schools.

<sup>23</sup> Thomas B. Fordham Institute, *Charter School Funding: Inequity's Next Frontier*, Washington, D.C.: Author, 2005.

It is important to note that the model law provides different sources of operational funding among the three options for funding flow. For the option where the funds flow through districts, the operational funding amount is composed of state and local dollars in the same amount to district schools.

In the options where the funding flows either directly to schools or through authorizers, the funding sources differ by authorizer. For schools authorized by districts, the operational funding amount is composed of state and local dollars in the same amount to district schools. For schools authorized by non-district entities, though, the operational funding amount is composed of state dollars in the same amount to district schools. To ensure that there is no fiscal impact on state budgets, the model law provides that the state withhold from the state equalization payments for each school district with students attending the public charter school an amount equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the school district multiplied by the number of students enrolled in the public charter school from the school district.

- **Timely Flow of Funds.** Public charter schools should receive funds in a timely manner. If district or non-district authorizers fail to send funds to public charter schools in a timely manner, the state should be able to sanction them by intercepting funds until the obligation is satisfied.
- **Categorical Funding.** Public charter schools should have equal access to categorical funding streams, including pre-kindergarten and adult education, and state laws should provide clear guidance on the pass-through of federal and state categorical funding streams.
- **Special Education.** State laws should explicitly address how federal and state special education funds will flow to the entities serving as LEAs for public charter school special education purposes.

- **Financial Accountability.** Public charter schools should be held financially accountable in the following ways:
  - They should adhere to Generally Accepted Accounting Principles.
  - They should annually engage an external auditor to do an independent audit of the school's finances. They should file a copy of each audit report and accompanying management letter to its authorizer by a certain date.
- **Transportation Funding.** Public charter schools should receive funding for transportation similar to school districts.

## Facilities

One of the biggest challenges facing public charter schools is finding and financing school facilities. The 41 jurisdictions with public charter school laws vary greatly in how they provide facility support to public charter schools. What is clear from the first 18 years of the public charter school movement is that there is not a “silver bullet” to resolving charters’ facilities challenges. Instead, states will likely have to implement several “silver bullets” in order to slay the facility beast.

In the model law, we provide a menu of approaches for supporting public charter school facility needs. The key components of the menu are as follows:

- **Per-Pupil Facilities Allowance.** The model law provides a per-pupil facilities allowance to each public charter school that is calculated via a rolling formula that is based on total facilities costs in a state over the past five years. While 11 states currently provide some type of a per-pupil facilities allowance to charters, the model law's language is modeled on the approach in the District of Columbia.<sup>24</sup>

<sup>24</sup> See DC ST § 38-2908.

- **Public Charter School Facility Grant Program.** The model law provides a public charter school facility grant program funded by a bond authorization. Although five states provide some type of a grant program, the model law's language is modeled on the approach in Connecticut.<sup>25</sup>
- **Public Charter School Facility Revolving Loan Program.** The model law provides a public charter school facility revolving loan program funded by state appropriations. If state appropriations are unavailable, we recommend the state use monies from the federal Charter Schools Program (CSP). According to federal law, states can use up to 10% of their grants from the CSP to establish a revolving loan fund. Although four states provide some type of loan program, the model law's language is modeled on the approach in California.<sup>26</sup>
- **Bonding Authority.** Public charter schools should have equal access to all of the relevant tax-exempt bonding authorities in a state or have their own bonding authority. For the first option, a state must amend the appropriate section of the law (e.g., state health and educational facility authority section) to clarify that public charter schools are eligible to obtain tax-exempt financing from the relevant authority. For the second option, a state must create a new section of state law establishing the authority.
- **Moral Obligation.** The model law creates a mechanism for the legislature to provide limited credit enhancement for eligible highly-rated bond transactions for public charter schools. Although two states provide such a mechanism, the model law's language is modeled on the approach in Colorado.<sup>27</sup>
- **Credit Enhancement Fund.** The model law creates a credit enhancement fund for public charter school facilities. Such a fund provides grants to eligible nonprofit organizations to carry out the following activities:
  - Obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;
  - Obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;
  - Enhancing the availability of loans (including mortgages) and bonds; and
  - Obtaining lease guarantees.
- **Existing State Facilities Programs.** Public charter schools should have equal access to all of the existing state facilities programs for traditional public schools in a state. Examples include the Public School Capital Construction Assistance Fund in Colorado and the Public School Capital Outlay Fund in New Mexico. To clarify that public charter schools are eligible to obtain funding from the relevant program, a state must amend the relevant section of the law (e.g., public school capital construction assistance fund section).
- **Access to District Facilities and Land.** Public charter schools should have the right of first refusal to purchase or lease at or below fair market value a closed or unused public school facility or property.
- **Facility-Related Requirements.** The model law provides language that no state or local entity may impose any facility-related requirements that are stricter than those applied to traditional public schools.

<sup>25</sup> See CT Gen Stat § 10-66jj.

<sup>26</sup> See Education Code § 47614.5.

<sup>27</sup> See CO Rev Stat § 22-40.5-407.

# A NEW MODEL LAW FOR SUPPORTING THE GROWTH OF HIGH-QUALITY PUBLIC CHARTER SCHOOLS

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## I. Short Title

This act shall be known and may be cited as the “Public Charter Schools Act,” (the “Act”).

## II. Legislative Declarations

- (1) The general assembly hereby finds and declares the following:
  - (a) It is in the best interests of the people of the state to provide all children with public schools that reflect high expectations and to create conditions in all schools where these expectations can be met;
  - (b) Education reform is necessary to strengthen the performance of elementary and secondary public school students;
  - (c) Those who know students best – their parents and educators – make the best education decisions regarding the students;
  - (e) Parents and educators have a right and a responsibility to participate in the education institutions which serve them;
  - (f) Different students learn differently and public school programs should be customized to fit the needs of individual students; and
  - (g) There are parents, educators, and other citizens in the state who are willing and able to offer educational programs but who lack a channel through which they can direct their efforts.
- (2) The general assembly finds and declares that the purposes of the state’s public charter schools as a whole are:
  - (a) To improve student learning by creating high-quality schools with high standards for student performance;
  - (b) To close achievement gaps between high-performing and low-performing groups of public school students;
  - (c) To increase high-quality educational opportunities within the public education system for all students, especially those at risk of academic failure;
  - (d) To create new professional opportunities for teachers, school administrators, and other

school personnel that allow them to have a direct voice in the operation of their schools;

- (e) To encourage the use of different, high-quality models of teaching, governing, scheduling, or other aspects of schooling that meet a variety of student needs;
  - (f) To allow public schools freedom and flexibility in exchange for exceptional levels of results-driven accountability;
  - (g) To provide students, parents, community members, and local entities with expanded opportunities for involvement in the public education system; and
  - (h) To encourage the replication of successful public charter schools.
- (3) All public charter schools in the state established under this Act are public schools and are part of the state’s public education system. The provisions of this Act should be interpreted liberally to support the findings and purposes of this section and to advance a renewed commitment by the state to the mission, goals, and diversity of public education.

## III. Definitions

As used in this Act:

- (1) An “applicant” means any person or group that develops and submits an application for a public charter school to an authorizer.
- (2) An “application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.
- (3) An “at-risk student” means a student who has an economic or academic disadvantage that requires special services and assistance to succeed in educational programs. The term includes, but is not necessarily limited to, students who are members of economically disadvantaged families, students who are identified as having special educational needs, students who are limited in English proficiency,

students who are at risk of dropping out of high school, and students who do not meet minimum standards of academic proficiency.

- (4) An “authorizer” means an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts.
- (5) A “charter contract” means a fixed-term, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.
- (6) A “conversion public charter school” means a charter school that existed as a non-charter public school before becoming a public charter school.
- (7) An “education service provider” means a for-profit education management organization, non-profit charter management organization, school design provider, or any other partner entity with which a public charter school intends to contract for educational design, implementation, or comprehensive management.
- (8) A “governing board” means the independent board of a public charter school that is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school’s application.
- (9) A “local school board” means a school board exercising management and control of a local school district pursuant to the state constitution and state statutes.
- (10) A “local school district” means a public agency that establishes and supervises one or more public schools within its geographical limits pursuant to the state constitution and state statutes.
- (11) A “non-charter public school” means a public school that is under the direct management, governance, and control of a local school board or the state.
- (12) A “parent” means a parent, guardian, or other person or entity having legal custody of a child.
- (13) A “public charter school” means a public school that:
  - (a) Has autonomy over decisions including, but not limited to, matters concerning finance, personnel, scheduling, curriculum, and instruction;
  - (b) Is governed by an independent governing board;
  - (c) Is established and operating under the terms of a charter contract between the school’s board and its authorizer;
  - (d) Is a school to which parents choose to send their children;
  - (e) Is a school that admits students on the basis of a lottery if more students apply for admission than can be accommodated;
  - (f) Provides a program of education that includes one or more of the following: pre-school, pre-kindergarten, any grade or grades from kindergarten through 12<sup>th</sup> grade, and adult community, continuing, and vocational education programs;
  - (g) Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and
  - (h) Operates under the oversight of its authorizer in accordance with its charter contract.
- (14) A “start-up public charter school” means a public charter school that did not exist as a non-charter public school prior to becoming a public charter school.
- (15) A “student” means any child who is eligible for attendance in public schools in the state.
- (16) A “virtual public charter school” means a public charter school that offers educational services predominantly through an on-line program.

## IV. Enrollment

- (1) Open Enrollment and Lottery Requirements
  - (a) A public charter school shall be open to any student residing in the state.
  - (b) A school district shall not require any student enrolled in the school district to attend a public charter school.
  - (c) A public charter school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.
  - (d) A public charter school may limit admission to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the school's application.
  - (e) A public charter school shall enroll all students who wish to attend the school, unless the number of students exceeds the capacity of a program, class, grade level, or building.
  - (f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.
- (2) Enrollment Preferences
  - (a) Any non-charter public school converting partially or entirely to a public charter school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.
  - (b) A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. An enrollment preference for returning students excludes those students from entering into a lottery.
  - (c) A public charter school may give enrollment preference to children of a public charter school's founders, governing board members, and full-time employees, so long as they constitute no more than 10% of the school's total student population.
  - (d) This section does not preclude the formation of a public charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend such school, the public charter school shall select students through a lottery.
- (3) Credit Transferability
  - (a) If a student who was previously enrolled in a public charter school enrolls in another public school in this state, the student's new school shall accept credits earned by the student in courses or instructional programs at the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other public schools.
- (4) Information to Parents and the General Public
  - (a) A school district shall provide or publicize to parents and the general public information about public charter schools authorized by the district as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about non-charter public schools in the district.
- (5) Determination of Student Capacity of Public Charter Schools
  - (a) An authorizer may not restrict the number of students a public charter school may enroll. The capacity of the public charter school shall be determined annually by the governing board of the public charter school in conjunction with the authorizer and in consideration of the public charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

## V. Authorizers

### (1) Eligible Authorizing Entities

- (a) The state public charter school commission created under Section V, (2) of this Act may authorize public charter schools anywhere in the state, provided that the commission fulfills requirements of all public charter school authorizers under this Act.
- (b) A local school board may register with the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], pursuant to Section V, (3) of this Act, for chartering authority within the boundaries of the school district overseen by the local school board.
- (c) Governing boards of accredited public or private postsecondary institutions, including community colleges, technical colleges, tribal colleges, and four-year colleges and universities, may apply to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], pursuant to Section V, (4) of this Act, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.
- (d) A mayor may apply to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], pursuant to Section V, (4) of this Act, for chartering authority within the mayor's jurisdiction.
- (e) A city council may apply to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], pursuant to Section V, (4) of this Act, for chartering authority within the city council's jurisdiction.
- (f) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], pursuant to Section V, (4) of this Act, and may be granted statewide, regional, or local chartering authority. Nonpublic sectarian or religious organizations, and any other charitable organization which in their federal IRS Form 1023, Part IV, describe activities

indicating a religious purpose, are not eligible to apply to become an authorizer.

### (2) State Public Charter School Commission

- (a) This Act establishes a state public charter school commission (the "Commission") as an independent state agency with statewide chartering jurisdiction and authority.
- (b) The mission of the Commission shall be to authorize high-quality public charter schools throughout the state, particularly schools designed to expand opportunities for at-risk students, consistent with the purposes of this Act.
- (c) The Commission shall consist of nine members, no more than five of whom shall be members of the same political party. Three members shall be appointed by the Governor; three members shall be appointed by the President of the Senate; and three members shall be appointed by the Speaker of the House of Representatives. In making the appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure statewide geographic diversity among Commission members.
- (d) Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, and curriculum and instruction, and public education law. All members of the Commission shall have demonstrated understanding of and commitment to charter schooling as a strategy for strengthening public education.
- (e) To establish staggered terms of office, the initial term of office for three Commission members shall be four years and thereafter shall be three years; the initial term of office for another three members shall be three years and thereafter shall be three years; and the initial term of office for the last three members shall be two years and thereafter shall be two years. No member shall serve more than seven consecutive years. The

initial appointments shall be made no later than [INSERT DATE].

- (f) A member of the Commission may be removed for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint a member for the remaining portion of the term.
  - (g) To commence operations, the Commission shall be funded initially by a one-time state appropriation of \$250,000. The Commission is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this Act, subject to the terms and conditions under which they are given, provided that all such terms and conditions are permissible under law.
  - (h) The Commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of public charter school authorizing in accordance with this Act.
- (3) Chartering Authority Registration of Local School Boards
- (a) The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall publicize to all local school boards the opportunity to register with the state for chartering authority within the school districts they oversee. By [INSERT DATE] of each year, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall provide information about the opportunity, including a registration deadline, to all local school boards. To register as a charter authorizer in its school district, each interested local school board shall submit the following information in a format to be established by the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]:
    - (i) Written notification of intent to serve as a charter authorizer in accordance with this Act;
    - (ii) An explanation of the local school board's strategic vision for chartering;
    - (iii) An explanation of the local school board's budget and personnel capacity and commitment to execute the duties of quality charter authorizing, in accordance with this Act;
    - (iv) An explanation of how the local school board will solicit public charter school applicants, in accordance with this Act;
    - (v) A description or outline of the performance framework the local school board will use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this Act; and
    - (vi) A draft of the local school board's renewal, revocation, and non-renewal processes, consistent with Section VII, (3).
    - (vii) A statement of assurance that the local school board commits to serving as a charter authorizer in fulfillment of the expectations, spirit, and intent of this Act, and will fully participate in any authorizer training provided or required by the state.
  - (b) Within [INSERT NUMBER OF DAYS] of receipt of a local school board's duly submitted registration materials, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall register the local school board as a charter authorizer within the local board's school district, and shall provide the local board a letter confirming its registration as a charter authorizer. No local school board shall engage in any charter-authorizing functions without current registration as a charter authorizer with the state. Once registered, the local school board's registration as a charter authorizer shall continue from year to year, provided that the local school board fulfills all charter-authorizing duties and expectations set forth in this Act and remains an authorizer in good standing with the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY].

## (4) Chartering Authority Application for Eligible Entities

(a) The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall establish the annual application and approval process, including cycles and deadlines during the fiscal year, for all entities eligible to apply for chartering authority, as set forth in Section V, (1) of this Act. By [INSERT DATE] of each year, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this Act. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

- (i) Written notification of intent to serve as a charter authorizer in accordance with this Act;
- (ii) The applicant entity's strategic vision for chartering;
- (iii) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this Act;
- (iv) A draft or preliminary outline of the request for proposals that the applicant entity would, if approved as a charter authorizer, issue to solicit public charter school applicants, consistent with Section VI, (1) of this Act;
- (v) A draft of the performance framework that the applicant entity would, if approved as a charter authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this Act;
- (vi) A draft of the applicant entity's renewal, revocation, and non-renewal processes, consistent with Section VII, (3) of this Act;

(vii) A statement of assurance that the applicant entity seeks to serve as a charter authorizer in fulfillment of the expectations, spirit, and intent of this Act, and that if approved as a charter authorizer, the entity will fully participate in any authorizer training provided or required by the state; and

(viii) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning their charter-authorizing practices, decisions, and expenditures.

(b) By [INSERT DATE] of each year, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall decide whether to grant or deny chartering authority to each applicant. The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall make its decisions on the merits of each applicant's proposal and plans.

(c) Within [INSERT NUMBER OF DAYS] of the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]'s decision, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this Act, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

## (5) Authorizer Powers, Duties, and Liabilities

(a) Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:

- (i) Soliciting and evaluating charter applications;
  - (ii) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
  - (iii) Declining to approve weak or inadequate charter applications;
  - (iv) Negotiating and executing sound charter contracts with each approved public charter school;
  - (v) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and
  - (vi) Determining whether each charter contract merits renewal, nonrenewal, or revocation.
- (b) An authorizing entity may delegate its duties to offices, employees, and contractors.
  - (c) Regulation by authorizers shall be limited to these powers and duties, and consistent with the spirit and intent of this Act.
  - (d) An authorizing entity, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school they authorize.
- (6) Principles and Standards for Charter Authorizing
- (a) All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including: organizational capacity and infrastructure; soliciting and evaluating charter applications; performance contracting; ongoing public charter school oversight and evaluation; and charter renewal decision-making. Authorizers shall carry out all their duties under this Act in a manner consistent with such nationally recognized principles and standards and with the spirit and intent of this Act. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.
- (7) Authorizer Reporting
- (a) Every authorizer shall be required to submit to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] and the general assembly an annual report summarizing:
    - (i) The authorizer's strategic vision for chartering and progress toward achieving that vision;
    - (ii) The academic and financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this Act;
    - (iii) The status of the authorizer's public charter school portfolio, identifying all public charter schools in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;
    - (iv) The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with Generally Accepted Accounting Principles; and
    - (v) The services purchased from the authorizer by the public charter schools under its purview, including an itemized accounting of the actual costs of these services, as required in Section V, (11).
- (8) Authorizer Funding
- (a) To cover authorizer costs for overseeing public charter schools in accordance with this Act, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall remit to each authorizer an oversight fee for each public charter school it authorizes.

The oversight fee shall be drawn from and calculated as a uniform percentage of the per-student operational funding allocated to each public charter school under Section IX, (2) of this Act, not to exceed three percent of each public charter school's per-student funding in a single school year. The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall establish a statewide formula for authorizer funding, which shall apply uniformly to every authorizer in the state. The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] may establish a sliding scale for authorizer funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of years of authorizing or after a certain number of schools has been authorized.

- (b) An authorizer's oversight fee shall not include any costs incurred in delivering services that a public charter school may purchase at its discretion from the authorizer. The authorizer shall use its funding provided under this section exclusively for the purpose of fulfilling authorizing obligations in accordance with this Act.
  - (c) The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall annually review the effectiveness of the state formula for authorizer funding, and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this Act.
- (9) Conflicts of Interest
- (a) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that entity.
- (10) Exclusivity of Authorizing Functions and Rights
- (a) No governmental or other entity, other than those expressly granted chartering authority as set forth in this Act, may assume any

charter authorizing function or duty in any form, unless expressly allowed by law.

(11) Services Purchased from Authorizer – Itemized Accounting

- (a) With the exception of oversight services as required by Section IV, (8), no public charter school shall be required to purchase services from its authorizer as a condition of charter approval or of executing a charter contract, nor may any such condition be implied.
- (b) A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school. An authorizer may not charge more than market rates for services provided to a public charter school.
- (c) Within [INSERT NUMBER OF DAYS] after the end of each fiscal year, each authorizer shall provide to each public charter school it oversees an itemized accounting of the actual costs of services purchased by the public charter school from the authorizer. Any difference between the amount initially charged to the public charter school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in such accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by [INSERT NAME OF STATE'S AUTHORIZER of authorizers] whose determination shall be final.

(12) Oversight of Public Charter School Authorizers

- (a) The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall be responsible for overseeing the performance and effectiveness of all authorizers established under this Act.

- (b) In accordance with Section V, (7), every authorizer shall be required to submit to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] and the general assembly an annual report. The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall, by [INSERT DATE] of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.
- (c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]. In reviewing or evaluating the performance of authorizers [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], or the requirements of all authorizers under this Act, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.
- (d) If a local school board registered as an authorizer under Section V, (3) of this Act persists in violating a material provision of a charter contract or fails to remedy other authorizing problems after due notice from the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall notify the local school board, within a reasonable amount of time under the circumstances, that it intends to terminate the local board's chartering authority unless the local board demonstrates a timely and satisfactory remedy for the violation or deficiencies.
- (e) If an authorizer granted chartering authority under Section V, (4) of this Act persists, after due notice from the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], in violating a material provision of a charter contract or its authorizing contract with the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], or fails to remedy other identified authorizing problems, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.
- (f) In the event of revocation of any authorizer's chartering authority, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term.

## VI. Application Process

- (1) Request for Proposals
  - (a) To solicit, encourage, and guide the development of quality public charter school applications, every authorizer operating under this Act shall issue and broadly publicize a request for proposals by [INSERT DATE]. The content and dissemination of the request for proposals shall be consistent with the purposes and requirements of this Act.
  - (b) Charter applicants may submit a proposal for a particular public charter school to no more than one authorizer at a time.
  - (c) The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall annually establish and disseminate a statewide timeline for charter approval or

- denial decisions, which shall apply to all authorizers in the state.
- (d) Each authorizer's request for proposals shall present the authorizer's strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that help at-risk students.
  - (e) The request for proposals shall include or otherwise direct applicants to the performance framework that the authorizer has developed for public charter school oversight and evaluation in accordance with Section VII, (1) of this Act.
  - (f) The request for proposals shall include the criteria that will guide the authorizer's decision to approve or deny a charter application.
  - (g) The request for proposals shall state clear, appropriately detailed questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful public charter school.
  - (h) The request for proposals shall require charter applications to provide or describe thoroughly, and each charter application shall provide or describe thoroughly, all of the following essential elements of the proposed school plan:
    - (i) An executive summary;
    - (ii) The mission and vision of the proposed public charter school, including identification of the targeted student population and the community the school hopes to serve;
    - (iii) The location or geographic area proposed for the school;
    - (iv) The grades to be served each year for the full term of the charter contract;
    - (v) Minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;
    - (vi) Evidence of need and community support for the proposed public charter school;
    - (vii) Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;
    - (viii) The school's proposed calendar and sample daily schedule;
    - (ix) A description of the academic program aligned with state standards;
    - (x) A description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods;
    - (xi) The school's plan for using internal and external assessments to measure and report student progress on the performance framework developed by the authorizer in accordance with Section VII, (1) of this Act;
    - (xii) The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind, and gifted students, including but not limited to compliance with applicable laws and regulations;
    - (xiii) A description of co-curricular or extracurricular programs and how they will be funded and delivered;
    - (xiv) Plans and timelines for student recruitment and enrollment, including lottery procedures;
    - (xv) The school's student discipline policies, including those for special education students;
    - (xvi) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies (such as advisory bodies or parent and teacher councils), and any external organizations that will play a role in managing the school;

- (xvii) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;
  - (xviii) A staffing chart for the school's first year, and a staffing plan for the term of the charter;
  - (xix) Plans for recruiting and developing school leadership and staff;
  - (xx) The school's leadership and teacher employment policies, including performance evaluation plans;
  - (xxi) Proposed governing bylaws;
  - (xxii) Explanations of any partnerships or contractual relationships central to the school's operations or mission;
  - (xxiii) The school's plans for providing transportation, food service, and all other significant operational or ancillary services;
  - (xxiv) Opportunities and expectations for parent involvement;
  - (xxv) A detailed school start-up plan, identifying tasks, timelines and responsible individuals;
  - (xxvi) Description of the school's financial plan and policies, including financial controls and audit requirements;
  - (xxvii) A description of the insurance coverage the school will obtain;
  - (xxix) Start-up and five-year budgets with clearly stated assumptions;
  - (xxix) Start-up and first-year cash-flow projections with clearly stated assumptions;
  - (xxx) Evidence of anticipated fundraising contributions, if claimed in the application; and,
  - (xxxi) A sound facilities plan, including backup or contingency plans if appropriate.
- (i) In the case of an application to establish a public charter school by converting an existing non-charter public school to public charter school status, the request for proposals shall additionally require the applicants to demonstrate support for the proposed public charter school conversion by a petition signed by a majority of teachers and a petition signed by a majority of parents of students in the existing non-charter public school.
- (j) In the case of a proposal to establish a virtual public charter school, the request for proposals shall additionally require the applicants to describe the proposed school's system of course credits and how the school will:
- (i) Monitor and verify full-time student enrollment, student participation in a full course load, credit accrual, and course completion;
  - (ii) Monitor and verify student progress and performance in each course through regular, proctored assessments and submissions of coursework;
  - (iii) Conduct parent-teacher conferences; and
  - (iv) Administer state-required assessments to all students in a proctored setting.
- (k) In the case of a proposed public charter school that intends to contract with an education service provider for substantial educational services, management services, or both types of services, the request for proposals shall additionally require the applicants to:
- (i) Provide evidence of the education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of non-academic school functions if applicable;
  - (ii) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of

- services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and
    - (iii) Disclose and explain any existing or potential conflicts of interest between the school governing board and proposed service provider or any affiliated business entities.
  - (l) In the case of a public charter school proposal from an applicant that currently operates one or more schools in any state or nation, the request for proposals shall additionally require the applicant to provide evidence of past performance and current capacity for growth.
- (2) Application Decision-making Process
- (a) In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and criteria consistent with nationally recognized principles and standards for quality charter authorizing. The application review process shall include thorough evaluation of each written charter application, an in-person interview with the applicant group, and an opportunity in a public forum for local residents to learn about and provide input on each application.
  - (b) In deciding whether to approve charter applications, authorizers shall:
    - (i) Grant charters only to applicants that have demonstrated competence in each element of the authorizer's published approval criteria and are likely to open and operate a successful public charter school;
    - (ii) Base decisions on documented evidence collected through the application review process;
    - (iii) Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest or any appearance thereof.
  - (c) No later than [INSERT NUMBER OF DAYS] after the filing of a charter application, the authorizer shall decide to approve or deny the charter application. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's governing board.
  - (d) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed pursuant to Section VI, (5) of this Act.
  - (e) For any charter denial, the authorizer shall clearly state, for public record, its reasons for denial. A denied applicant may subsequently re-apply to that authorizer or apply to any other authorizer in the state.
  - (f) Within [INSERT NUMBER OF DAYS] of taking action to approve or deny a charter application, the authorizer shall report to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] the action it has taken. The authorizer shall provide a copy of the report to the charter applicant at the same time that the report is submitted to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the procedural requirements and application elements set forth in Section VI of this Act.
- (3) Purposes and Limitations of Charter Applications
- (a) The purposes of the charter application are to present the proposed public charter school's academic and operational vision and plans, demonstrate the applicant's capacities to execute the proposed vision and plans, and provide the authorizer a clear basis for assessing the applicant's plans and capacities.

An approved charter application shall not serve as the school's charter contract.

(4) Initial Charter Term

- (a) An initial charter shall be granted for a term of five operating years. The charter term shall commence on the public charter school's first day of operation. An approved public charter school may delay its opening for one school year in order to plan and prepare for the school's opening. If the school requires an opening delay of more than one school year, the school must request an extension from its authorizer. The authorizer may grant or deny the extension depending on the particular school's circumstances.

(5) Charter Contracts

- (a) Within [INSERT NUMBER OF DAYS] of approval of a charter application, the authorizer and the governing board of the approved public charter school shall execute a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the public charter school will be judged and the administrative relationship between the authorizer and public charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter contract shall include but need not be limited to applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the public charter school is operating and has collected baseline achievement data for its enrolled students.
- (b) The charter contract for a virtual public charter school shall include description and agreement regarding the methods by which the school will:

- (ii) Monitor and verify student progress and performance in each course through regular, proctored assessments and submissions of coursework;
- (iii) Conduct parent-teacher conferences; and
- (iv) Administer state-required assessments to all students in a proctored setting.

- (c) The charter contract shall be signed by the president of the authorizer's governing board and the president of the public charter school's governing body. Within [INSERT NUMBER OF DAYS] of executing a charter contract, the authorizer shall submit to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.
- (d) No public charter school may commence operations without a charter contract executed in accordance with this provision and approved in an open meeting of the authorizer's governing board.

(5) Pre-Opening Requirements or Conditions

- (a) Authorizers may establish reasonable pre-opening requirements or conditions to monitor the start-up progress of newly approved public charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening.

## VII. Accountability

(1) Performance Framework

- (a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorizer's evaluations of each public charter school. The performance

- (i) Monitor and verify full-time student enrollment, student participation in a full course load, credit accrual, and course completion;

framework shall include indicators, measures and metrics for, at a minimum:

- (i) Student academic proficiency;
  - (ii) Student academic growth;
  - (iii) Achievement gaps in both proficiency and growth between major student subgroups;
  - (iv) Attendance;
  - (v) Recurrent enrollment from year to year;
  - (vi) Postsecondary readiness (for high schools);
  - (vii) Financial performance and sustainability; and
  - (viii) Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.
- (b) Annual performance targets shall be set by each public charter school in conjunction with its authorizer, and shall be designed to help each school meet applicable federal, state, and authorizer expectations.
  - (c) The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance, provided that the authorizer approves the quality and rigor of such school-proposed indicators, and they are consistent with the purposes of this Act.
  - (d) The performance framework shall require the disaggregation of all student performance data by major student subgroups (gender, race, poverty status, special education status, English Learner status, and gifted status).
  - (e) For each public charter school it oversees, the authorizer shall be responsible for collecting, analyzing, and reporting all data from state assessments in accordance with the performance framework.
  - (f) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual schools,

and each school shall be held independently accountable for its performance.

- (2) Ongoing Oversight and Corrective Actions
  - (a) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this Act, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to public charter schools.
  - (b) Each authorizer shall annually publish and provide, as part of its annual report to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] and the general assembly, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and Section V, (7) of this Act. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.
  - (c) In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation timeframes will apply.
  - (d) Every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may

include, if warranted, requiring a school to develop and execute a corrective action plan within a specified timeframe.

(3) Renewals, Revocations, and Non-renewals

- (a) A charter may be renewed for successive five-year terms of duration, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of each public charter school. An authorizer may grant renewal with specific conditions for necessary improvements to a public charter school.
- (b) No later than [INSERT DATE], the authorizer shall issue a public charter school performance report and charter renewal application guidance to any public charter school whose charter will expire the following year. The performance report shall summarize the public charter school's performance record to date, based on the data required by this Act and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the public charter school that may jeopardize its position in seeking renewal if not timely rectified. The public charter school shall have [INSERT NUMBER OF DAYS] to respond to the performance report and submit any corrections or clarifications for the report.
- (c) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:
  - (i) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;
  - (ii) Describe improvements undertaken or planned for the school; and
  - (iii) Detail the school's plans for the next charter term.
- (d) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance

framework set forth in the charter contract and consistent with this Act.

- (e) No later than [INSERT DATE], the governing board of a public charter school seeking renewal shall submit a renewal application to the charter authorizer pursuant to the renewal application guidance issued by the authorizer. The authorizer shall rule by resolution on the renewal application no later than [INSERT NUMBER OF DAYS] after the filing of the renewal application.
- (f) In making charter renewal decisions, every authorizer shall:
  - (i) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;
  - (ii) Ensure that data used in making renewal decisions are available to the school and the public; and
  - (iii) Provide a public report summarizing the evidence basis for each decision.
- (g) A charter contract may be revoked at any time or not renewed if the authorizer determines that the public charter school did any of the following or otherwise failed to comply with the provisions of this Act:
  - (i) Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under this Act or the charter contract;
  - (ii) Fails to meet or make sufficient progress toward the performance expectations set forth in the charter contract;
  - (iii) Fails to meet generally accepted standards of fiscal management; or
  - (iv) Substantially violates any material provision of law from which the public charter school was not exempted.
- (h) An authorizer must develop revocation and non-renewal processes that:

- (i) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure;
    - (ii) Allow the charter holders a reasonable amount of time in which to prepare a response;
    - (iii) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;
    - (iv) Allow the charter holders access to representation by counsel and to call witnesses on their behalf;
    - (v) Permit the recording of such proceedings; and
    - (vi) After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter holders.
  - (i) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state, in a resolution of its governing board, the reasons for the revocation or nonrenewal.
  - (j) Within [INSERT NUMBER OF DAYS] of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] the action taken, and shall provide a copy of the report to the public charter school at the same time that the report is submitted to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this Act.
- (4) School Closure and Dissolution
    - (a) Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this Act. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.
    - (b) In the event of a public charter school closure for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the state treasury to the credit of the general revenue fund. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.
  - (5) Charter Transfers
    - (a) Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] by a public charter school or its authorizer. The [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students.

## (6) Annual Report

- (a) On or before [INSERT DATE] of each year beginning in the first year after the state will have had public charter schools operating for a full school year, the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY] shall issue to the governor, the general assembly, and the public at large, 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 [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], for the school year ending in the preceding calendar year. The annual report shall include a comparison of the performance of public charter school students with the performance of academically, ethnically, and economically comparable groups of students in non-charter public schools. In addition, the annual report shall include the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]'s assessment of the successes, challenges, and areas for improvement in meeting the purposes of this Act, including the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY]'s assessment of the sufficiency of funding for public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's public charter schools.

with the school's authorizer, where such contracting is consistent with applicable laws, rules, and regulations.

- (d) Except as provided in this Act, a public charter school shall not be subject to the state's education statutes or any state or local rule, regulation, policy, or procedure relating to non-charter public schools within an applicable local school district regardless of whether such rule, regulation, policy, or procedure is established by the local school board, the state board of education, or the state department of education.
- (e) A charter contract may consist of one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each public charter school that is part of a charter contract shall be separate and distinct from any others.
- (f) A single governing board may hold one or more charter contracts. Each public charter school that is part of a charter contract shall be separate and distinct from any others.
- (2) Local Educational Agency Status *[The 41 jurisdictions with public charter school laws vary greatly in how they address the local educational agency (LEA) status of public charter schools. In this model law, we provide two options for handling this issue in state law.]*

**OPTION 1: A PUBLIC CHARTER SCHOOL IS A LOCAL EDUCATIONAL AGENCY**

## VIII. Operations and Autonomy

## (1) Legal Status of Public Charter School

- (a) Notwithstanding any provision of law to the contrary, to the extent that any provision of this Act is inconsistent with any other state or local law, rule, or regulation, the provisions of this Act shall govern and be controlling.
- (b) A public charter school shall be a non-profit education organization.
- (c) A public charter school shall be subject to all federal laws and authorities enumerated herein or arranged by charter contract

- (a) A public charter school shall function as a Local Educational Agency ("LEA"). A public charter school shall be responsible for meeting the requirements of LEAs under applicable federal, state, and local laws, including those relating to special education. LEA status shall not preclude a public charter school from developing partnerships with districts for services, resources, and programs by mutual agreement or formal contract.
- (b) A public charter school shall have primary responsibility for special education at the school, including identification and service provision. It shall be responsible for meeting

the needs of enrolled students with disabilities. In instances where a student's individualized education program team determines that a student's needs are so profound that they cannot be met in the public charter school and that the public charter school cannot provide a free, appropriate public education to that student, the student's district of residence shall place the student in a more appropriate setting.

***OPTION 2: A PUBLIC CHARTER SCHOOL IS NOT A LOCAL EDUCATIONAL AGENCY***

- (a) The [INSERT NAME OF ENTITY] of a public charter school is the public charter school's Local Educational Agency ("LEA"). A public charter school is a school with that LEA.
- (b) The [INSERT NAME OF ENTITY] retains responsibility for special education and shall serve students in public charter schools in a manner consistent with LEA obligations under applicable federal, state, and local law.

**(3) Powers of Public Charter School**

- (a) A public charter school shall have all the powers necessary for carrying out the terms of its charter contract including the following powers:
  - (i) To receive and disburse funds for school purposes;
  - (ii) To secure appropriate insurance and to enter into contracts and leases, free from prevailing wage laws;
  - (iii) To contract with an education service provider for the management and operation of the public charter school so long as the school's governing board retains oversight authority over the school;
  - (iv) To incur debt in reasonable anticipation of the receipt of public or private funds;
  - (v) To pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;
  - (vi) To solicit and accept any gifts or grants for school purposes subject to applicable

laws and the terms of its charter contract;

- (vii) To acquire real property for use as its facility or facilities, from public or private sources; and,
- (viii) To sue and be sued in its own name.

**(4) General Requirements**

- (a) A public charter school shall not discriminate against any person on the basis of race, creed, color, sex, disability, or national origin or any other category that would be unlawful if done by a non-charter public school.
- (b) No public charter school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.
- (c) A public charter school shall not discriminate against any student on the basis of national-origin minority status or limited proficiency in English. Consistent with federal civil rights laws, public charter schools shall provide limited English proficient students with appropriate services designed to teach them English and the general curriculum.
- (d) A public charter school shall not charge tuition and may only charge such fees as may be imposed on other public schools in the state.
- (e) The powers, obligations, and responsibilities set forth in the charter contract cannot be delegated or assigned by either party.

**(5) Applicability of Other Laws, Rules, and Regulations**

- (a) Public charter schools shall be subject to the same civil rights, health, and safety requirements applicable to other public schools in the state, except as otherwise specifically provided in this Act.
- (b) Public charter schools shall be subject to the student assessment and accountability requirements applicable to other public schools in the state, but nothing herein shall preclude a public charter school from establishing additional student assessment measures that go beyond state requirements if the school's authorizer approves such measures.
- (c) Public charter school governing boards shall be subject to and comply with state open meetings and freedom of information laws.

- (6) Public Charter School Employees
  - (a) Public charter schools shall comply with applicable federal laws, rules, and regulations regarding the qualification of teachers and other instructional staff. In accordance with Section VIII, (1), (d), teachers in public charter schools shall be exempt from state teacher certification requirements.
  - (b) Employees in public charter schools shall have the same rights and privileges as other public school employees except as otherwise stated herein.
  - (c) Employees in public charter schools are eligible for participation in retirement and other benefits programs of the state, if the public charter school chooses to participate.
  - (d) Teachers and other school personnel, as well as governing board trustees, shall be subject to criminal history record checks and fingerprinting requirements applicable to other public schools.
  - (e) Public charter school employees cannot be required to be members of any existing collective bargaining agreement between a school district and its employees. A public charter school may not interfere, however, with laws and other applicable rules protecting the rights of employees to organize and be free from discrimination.
- (7) Access to Extra-Curricular and Interscholastic Activities
  - (a) A public charter school shall be eligible for state-sponsored or district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as non-charter public schools.
  - (b) A public charter school student is eligible to participate in extracurricular activities not offered by the student's school at:
    - (i) The school within whose attendance boundaries the student's custodial parent or legal guardian resides; or
    - (ii) The non-charter public school from which the student withdrew for the purpose of attending a public charter school.
  - (c) A public charter school student is eligible for extracurricular activities at a non-charter public school consistent with eligibility standards as applied to full-time students of the non-charter public school.
  - (d) A school district or non-charter public school may not impose additional requirements on a public charter school student to participate in extracurricular activities that are not imposed on full-time students of the non-charter public school.
  - (e) When selection to participate in an extracurricular activity at a non-charter public school is made on a competitive basis, a public charter school student is eligible to try out for and participate in the activity as provided in this section.
  - (f) The state board of education shall make rules establishing fees for public charter school students' participation in extracurricular activities at non-charter public schools. The rules shall provide that:
    - (i) Public charter school students pay the same fees as other students to participate in extracurricular activities;
    - (ii) Public charter school students are eligible for fee waivers similar to other students;
    - (iii) For each public charter school student who participates in an extracurricular activity at a non-charter public school, the public charter school shall pay a share of the non-charter public school's costs for the extracurricular activity; and
    - (iv) A public charter school's share of the costs of having one or more students participate in an extracurricular activity at non-charter public schools shall reflect state and local tax revenues expended, except capital facilities expenditures, for such extracurricular

activities in a non-charter public school divided by total student enrollment of the non-charter public school.

- (g) In determining a public charter school's share of the costs of an extracurricular activity under Subsections (f)(iii) and (iv), the state board of education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

## IX. Funding

*[The 41 jurisdictions with public charter school laws vary greatly in how they fund public charter schools. In this model law, we provide three options for handling this issue in state law. In the first option, funding flows from the state to school districts to public charter schools. In the second option, funding flows from the state directly to public charter schools. In the third option, funding flows from the state to authorizers to public charter schools.]*

### OPTION 1: FUNDING FLOWS FROM THE STATE TO SCHOOL DISTRICTS TO PUBLIC CHARTER SCHOOLS

- (1) Enrollment
- (a) The enrollment of students attending public charter schools shall be included in the enrollment, attendance, and, if applicable, count of students with disabilities of the school district in which the student resides. The public charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance, and count of students with disabilities to the state department of education.
- (2) Operational Funding
- (a) The school district of residence shall pay directly to the public charter school for each student enrolled in the public charter school who resides in the school district an amount for that student equal to one hundred percent

of the amount calculated pursuant to the state's funding formula for school districts, notwithstanding the oversight fee reductions pursuant to Section V, (8) of this Act.

### (3) Payment Schedule

- (a) Payments made pursuant to this section shall be made by school districts in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a public charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

### (4) Sanctions for Failure to Make Payments

- (a) In the event of the failure of a school district to make payments required by this section, the state treasurer shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The treasurer shall pay over such sum to the public charter school upon certification of the state department of education. The state department of education shall or delegation promulgate regulations to implement the provisions of this section.

### (5) Categorical Funding

- (a) A school district shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. A school district shall ensure that public charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars.

Each public charter school that serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

(6) Special Education Funding

***FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) A school district shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (b) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services.

***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) A school district shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (b) A public charter school shall pay to its authorizer any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student that the authorizer provides directly or indirectly.
- (c) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the authorizer's total budget for providing special education services. The reserve shall only be used by the authorizer to offset excess costs of providing services to students with disabilities enrolled in one of its public charter schools.

***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) The school district shall provide special education services to students enrolled in public charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district.
  - (b) The school district shall retain any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student with a disability that the school district provides directly or indirectly.
  - (c) At either party's request, however, the public charter school and the school district may negotiate and include in a contract alternate arrangements for the provision of and payment for special education services. If the public charter school and the school district have negotiated to allow the public charter school to provide special education services, the proportionate share of state and federal resources generated by such students shall be directed by the school district to the public charter school enrolling such students.
- (7) Generally Accepted Accounting Principles – Independent Audit
- (a) A public charter school shall adhere to Generally Accepted Accounting Principles.
  - (b) A public charter school shall annually engage an external auditor to do an independent audit of the school's finances. A public charter school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].
- (8) Transportation Funding
- (a) The state department of education shall disburse state transportation funding to a school district for each of the public charter school students residing in the school district on the same basis and in the same manner as it is paid to school districts. A school district shall disburse

state transportation funding to a public charter school in proportion to the amount generated by the school's students who reside in the school district.

- (b) A public charter school may enter into a contract with a school district or private provider to provide transportation to the school's students.

(9) Budget Reserves

- (a) Any monies received by a public charter school from any source and remaining in the public charter school's accounts at the end of any budget year shall remain in the public charter school's accounts for use by the public charter school during subsequent budget years.

(10) Ability to Accept Gifts, Donations, and Grants

- (a) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public charter school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

**OPTION 2: FUNDING FLOWS FROM THE STATE DIRECTLY TO PUBLIC CHARTER SCHOOLS**

(1) Enrollment

- (a) Each public charter school shall certify to the state department of education its student enrollment in the same manner as school districts.

(2) Operational Funding

- (a) For a public charter school authorized by a school district, the state shall pay directly to the public charter school for each student enrolled in the public charter school an

amount for that student equal to one hundred percent of the amount calculated pursuant to the state's funding formula for the student's resident school district, notwithstanding the oversight fee reductions pursuant to Section V, (8) of this Act.

- (b) For a public charter school authorized by an entity other than a school district, the state department of education shall withhold from the state equalization payments for each school district with students residing in the school district and attending the public charter school an amount equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the resident school district multiplied by the number of students enrolled in the public charter school from the resident school district. The state department of education shall send the sum of these withholdings to the public charter school, notwithstanding the oversight fee reductions pursuant to Section V, (8) of this Act.

(3) Payment Schedule

- (a) Payments made pursuant to this section shall be made by the state in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a public charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(4) Categorical Funding

- (a) The state shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. The state shall ensure that public

charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each public charter school that serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

(5) Special Education Funding

***FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) The state shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (b) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services.

***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) The state shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (b) A public charter school shall pay to its authorizer any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student that the authorizer provides directly or indirectly.
- (c) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the authorizer's total budget for providing special education services. The reserve shall only be used by the authorizer to offset excess costs of providing services to students with disabilities enrolled in one of its public charter schools.

***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) The school district shall provide special education services to students enrolled in public charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district.
  - (b) The school district shall retain any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student with a disability that the school district provides directly or indirectly.
  - (c) At either party's request, however, the public charter school and the school district may negotiate and include in a contract alternate arrangements for the provision of and payment for special education services. If the public charter school and the school district have negotiated to allow the public charter school to provide special education services, the proportionate share of state and federal resources generated by such students shall be directed by the school district to the public charter school enrolling such students.
- (6) Generally Accepted Accounting Principles – Independent Audit
- (a) A public charter school shall adhere to Generally Accepted Accounting Principles.
  - (b) A public charter school shall annually engage an external auditor to do an independent audit of the school's finances. A public charter school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].
- (7) Transportation Funding
- (a) The state department of education shall disburse state transportation funding to a public charter school on the same basis and in the same manner as it is paid to school districts.
  - (b) A public charter school may enter into a contract with a school district or private

provider to provide transportation to the school's students.

(8) Budget Reserves

- (a) Any monies received by a public charter school from any source and remaining in the public charter school's accounts at the end of any budget year shall remain in the public charter school's accounts for use by the public charter school during subsequent budget years.

(9) Ability to Accept Gifts, Donations, and Grants

- (a) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public charter school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

**OPTION 3: FUNDING FLOWS FROM  
THE STATE TO AUTHORIZERS TO PUBLIC  
CHARTER SCHOOLS**

(1) Enrollment

- (a) Each authorizer shall certify to the state department of education the student enrollment for that year for each of its public charter schools in the same manner as school districts.

(2) Operational Funding

- (a) For a public charter school authorized by a school district, the school district shall pay directly to the public charter school for each student enrolled in the school an amount for that student equal to one hundred percent of the amount calculated pursuant to the state's funding formula for the student's resident school district,

notwithstanding the oversight fee reductions pursuant to Section V, (8) of this Act.

- (b) For a public charter school authorized by an entity other than a school district, the state department of education shall withhold from the state equalization payments for each school district with students residing in the school district and attending the public charter school an amount equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the resident school district multiplied by the number of students enrolled in the public charter school from the resident school district. The state department of education shall send the sum of these withholdings to the authorizer. The authorizer shall forward the sum of these withholdings to each public charter school, notwithstanding the oversight fee reductions pursuant to Section V, (8) of this Act.

(3) Payment Schedule

- (a) Payments made pursuant to this section shall be made by an authorizer in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a public charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(4) Sanctions for Failure to Make Payments

- (a) In the event of the failure of an authorizer to make payments required by this section, the state treasurer shall deduct from any state funds which become due to such an authorizer an amount equal to the unpaid obligation. The treasurer shall pay over such

sum to the public charter school upon certification of the state department of education. The state department of education shall promulgate regulations to implement the provisions of this section.

(5) Categorical Funding

- (a) An authorizer shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. The state shall ensure that public charter schools with rapidly expanding enrollment are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each public charter school that receives such aid shall comply with all reporting requirements to receive the aid.

(6) Special Education Funding

***FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) An authorizer shall pay directly to the public charter school any federal or state aid attributable to a student with a disability attending the school.
- (b) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services.

***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) The authorizer shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (b) A public charter school shall pay to its authorizer any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student that the authorizer provides directly or indirectly.

- (c) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the authorizer's total budget for providing special education services. The reserve shall only be used by the authorizer to offset excess costs of providing services to students with disabilities enrolled in one of its public charter schools.

***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL EDUCATION PURPOSES:***

- (a) The school district shall provide special education services to students enrolled in public charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district.
- (b) The state shall disburse to a school district any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student with a disability that the school district provides directly or indirectly.
- (c) At either party's request, however, the public charter school and the school district may negotiate and include in a contract alternate arrangements for the provision of and payment for special education services. If the public charter school and the school district have negotiated to allow the public charter school to provide special education services, the proportionate share of state and federal resources generated by such students shall be directed by the school district to the public charter school enrolling such students.

(7) Generally Accepted Accounting Principles – Independent Audit

- (a) A public charter school shall adhere to Generally Accepted Accounting Principles.

- (b) A public charter school shall annually engage an external auditor to do an independent audit of the school's finances. A public charter school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].
- (8) Transportation Funding
    - (a) The state department of education shall disburse state transportation funding to an authorizer for each of its public charter school students on the same basis and in the same manner as it is paid to school districts. An authorizer shall disburse state transportation funding to a public charter school in proportion to the amount generated by the school's students.
    - (b) A public charter school may enter into a contract with a school district or private provider to provide transportation to the school's students.
  - (9) Budget Reserves
    - (a) Any monies received by a public charter school from any source and remaining in the public charter school's accounts at the end of any budget year shall remain in the public charter school's accounts for use by the public charter school during subsequent budget years.
  - (10) Ability to Accept Gifts, Donations, and Grants
    - (a) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public charter school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

## X. Facilities

*[In this model law, we provide a menu of approaches for handling this issue in state law, most of which should be included in a given state's law.]*

- (1) Per-Student Facility Allowance
  - (a) The per-student facility allowance for public charter schools shall be determined as follows: the total capital costs for public schools in the state over the past five years shall be divided by the total student count in the state over the past five years.
  - (b) The actual facility allowance payments to be received by each public charter school shall be determined as follows: the per-student facility allowance shall be multiplied by the number of students estimated to be attending each public charter school.
- (2) Public Charter School Facility Grant Program
  - (a) The state board of education shall establish, within available bond authorizations, a grant program to assist public charter schools in financing school building projects, general improvements to school buildings, and repayment of debt for school building projects. Public charter schools may apply for such grants to the state board of education at such time and in such manner as the state board of education prescribes. The state board of education shall give preference to applications that provide for matching funds from non-state sources.
  - (b) For the purposes described in subsection (c) of this section, the [INSERT NAME OF APPROPRIATE STATE BONDING AUTHORITY] shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate [INSERT DOLLAR AMOUNT] provided [INSERT DOLLAR AMOUNT] of said authorization shall be effective [INSERT DATE].
  - (c) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection

- (b) of this section, shall be used by the state board of education for the purpose of grants pursuant to subsection (a).
- (d) Bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the state treasurer shall pay such principal and interest as the same become due.
- (3) Public Charter School Facility Revolving Loan Program
- (a) The public charter school facility revolving loan program is hereby created in the state treasury. The public charter school facility revolving loan program shall be comprised of federal funds obtained by the state for public charter schools and any other funds appropriated or transferred to the fund by the state. Funds appropriated to the public charter school facility revolving loan program shall remain available for the purposes of the program until re-appropriated or reverted by the general assembly.
- (b) Loans may be made from moneys in the public charter school facility revolving loan program to a public charter school, upon application by a public charter school and approval by the state board of education or its designee. Money loaned to a public charter school pursuant to this section shall be for construction, purchase, renovation, and maintenance of public charter school facilities. No loan to a public charter school shall exceed [INSERT DOLLAR AMOUNT] over [INSERT NUMBER OF YEARS]. A public charter school may receive multiple loans from the public charter school facility revolving loan program, as long as the total amount received from the program over [INSERT NUMBER OF YEARS] does not exceed [INSERT DOLLAR AMOUNT].
- (c) The state board of education or its designee may consider all of the following when making a determination as to the approval of a public charter school's loan application:
- (i) Soundness of the financial business plans of the applicant public charter school.
  - (ii) Availability to the public charter school of other sources of funding.
  - (iii) Geographic distribution of loans made from the public charter school facility revolving loan program.
  - (iv) The impact that loans received pursuant to this section will have on the public charter school's receipt of other private and public financing.
  - (v) Plans for innovatively enhancing or leveraging funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.
  - (vi) The financial needs of the public charter school.
- (d) Commencing with the first fiscal year following the fiscal year the public charter school receives the loan, the [INSERT NAME OF APPROPRIATE STATE AGENCY] shall deduct from apportionments made to the public charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the public charter school under this section and pay the same amount into the public charter school facility revolving loan program in the state treasury. Repayment of the full amount loaned to the public charter school shall be deducted by the [INSERT NAME OF APPROPRIATE STATE AGENCY] in equal annual amounts over a number of years agreed upon between the public charter school and the state board of education or its designee, not to exceed [INSERT NUMBER OF YEARS] for any loan.
- (e) Notwithstanding other provisions of law, a loan may be made to a public charter school pursuant to this section only in the case of a public charter school that is incorporated.

- (f) Notwithstanding other provisions of law, in the case of default of a loan made directly to a public charter school pursuant to this section, the public charter school shall be solely liable for repayment of the loan.

(4) Bonding Authority

*[Public charter schools should either have equal access to all of the relevant bonding authorities in a state or have their own bonding authority. For the first option, a state must amend the appropriate section of the law (e.g., state health and educational facility authority section) to clarify that public charter schools are eligible to obtain tax-exempt financing from the relevant authority. For the second option, see language below.]*

(a) As used in this section:

- (i) “Authority” means the state public charter school finance authority created by this section.
- (ii) “Obligations” mean any notes, debentures, revenue bonds, or other evidences of financial indebtedness, except general obligation bonds.
- (iii) “Project” means:
  - (A) Any building, structure, or property owned, or to be acquired, by a public charter school for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and lands; or
  - (B) Any capital equipment owned, or to be acquired, by a public charter school for any of its educational purposes, interests in land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.

- (b) There is created a body politic and corporate known as the state public charter school finance authority. The authority is created to provide an efficient and cost-effective method of financing public charter school facilities.
- (c) The governing board of the authority shall be composed of:
  - (i) The governor or the governor’s designee;
  - (ii) The state treasurer; and
  - (iii) The state superintendent of public instruction or the state superintendent’s designee.
- (d) Upon request, the state board of education shall provide staff support to the authority.
- (e) The authority shall have perpetual succession as a body politic and corporate.
- (f) The authority may:
  - (i) Sue and be sued in its own name;
  - (ii) Have, and alter at will, an official seal;
  - (iii) Receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part, subject to the conditions upon which the aid and contributions are made, for any purpose consistent with this part;
  - (iv) Exercise the power to borrow money and issue obligations, except the authority may only exercise powers to finance a project as defined in state law;
  - (v) Employ advisers, consultants, and agents, including financial experts, independent legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment and fix their compensation;
  - (vi) Make and execute contracts and other instruments necessary or convenient for the performance of its duties

and the exercise of its powers and functions; and

- (vii) Have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

- (g) If the authority is dissolved at any time, for any reason, all funds, property, rights, and interests of the authority, following the satisfaction of the authority's obligations, shall immediately vest in and become the property of the state, which shall succeed to all rights of the authority subject to any encumbrances which may then exist on any particular properties.
- (h) None of the net earnings of the authority shall inure to the benefit of any private person.

(5) Moral Obligation of the State

- (a) The general assembly hereby finds and declares that its intent in enacting this section is to support public charter schools and public charter school capital construction by helping qualified public charter schools that choose to have the [INSERT NAME OF BONDING AUTHORITY] issue bonds on their behalf obtain more favorable financing terms for the bonds.
- (b) If the [INSERT NAME OF BONDING AUTHORITY] has issued bonds on behalf of a public charter school that defaults on its debt service payment obligations, the board of directors of the authority shall submit to the governor a certificate certifying any amount of moneys required to fulfill the school's debt service payment obligations. The governor shall submit a request for appropriations in an amount sufficient to fulfill the school's debt service payment obligations and the general assembly may, but shall not be required to, appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates any moneys for said purpose, the aggregate outstanding principal amount of bonds for which moneys may

be appropriated for said purpose shall not exceed [INSERT DOLLAR AMOUNT].

(6) Access to State Facilities Programs for Non-Charter Public Schools

*[Public charter schools should have equal access to all of the existing state facilities programs for traditional public schools in a state. To implement this item, a state must amend the relevant section of the law (e.g., public school capital construction assistance fund section) to clarify that public charter schools are eligible to obtain funding from the relevant program.]*

(7) Credit Enhancement Fund

- (a) [INSERT DOLLAR AMOUNT] shall be set aside for a credit enhancement fund for public charter schools to be administered by the state board of education.
- (b) Using the amounts described in paragraph (a), the state board of education shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in paragraph (c).
- (c) The recipient of a grant under this fund shall use the monies provided under the grant to carry out activities to assist public charter schools in:
  - (i) Obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;
  - (ii) Obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;
  - (iii) Enhancing the availability of loans (including mortgages) and bonds; and
  - (iv) Obtaining lease guarantees.

- (d) Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.
- (8) Access to District Facilities and Land
  - (a) A public charter school shall have a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or unused portions of a public school facility or property located in a school district from which it draws its students if the school district decides to sell or lease the public school facility or property.
- (9) Contracting for Use of Facilities
  - (a) A public charter school may negotiate and contract at or below fair market value with a school district, the governing body of a state college or university or public community college, or any other public or for-profit or nonprofit private entity for the use of facility for a school building.
- (10) Use of Other Facilities under Preexisting Zoning and Land Use Designations
  - (a) Library, community service, museum, performing arts, theatre, cinema, church, community college, college, and university facilities may provide space to public charter schools within their facilities under their preexisting zoning and land use designations.
- (11) Exemptions from Ad Valorem Taxes and Certain Fees
  - (a) Any facility, or portion thereof, used to house a public charter school shall be exempt from ad valorem taxes.
  - (b) Public charter school facilities are exempt from assessments of fees for building permits, fees for building and occupational licenses, impact fees, service availability fees, and assessments for special benefits.

The model law provides a menu of approaches for the charter school facilities issue, most of which should be included in a given state's law.

# APPENDIX A

## Resources

- Balboni, Elise, Eva Ranier, Clara Chae, and Kathy Olsen, *2007 Charter School Facility Finance Landscape*, New York City, New York: The Educational Facilities Financing Center of Local Initiatives Support Corporation, 2007.
- Bierlein, Louann A. and Lori A. Mulholland, *Comparing Charter Schools Laws: The Issue of Autonomy*. Tempe, AZ: Morrison Institute for Public Policy, 1994.
- Bierlein Palmer, Louann, *Alternative Charter Schools Authorizers: Playing a Vital Role in the Charter Movement*, Washington D.C.: Progressive Policy Institute, 2006.
- Bierlein Palmer, Louann and Rebecca Gau, *Charter School Authorizing: Are States Making the Grade?*, Washington, D.C.: Thomas B. Fordham Institute, 2003.
- Center for Education Reform, *Charter Schools Today: Changing the Face of American Education*, Washington, D.C.: Author, 2006.
- Gau, Rebecca, *Trends in Charter School Authorizing*, Washington, D.C.: Thomas B. Fordham Institute, 2006.
- Government Accountability Office, *Charter Schools: Oversight Practices in the District of Columbia*, Washington, D.C.: Author, 2005.
- Government Accountability Office, *D.C. Charter Schools: Strengthening Monitoring and Process When Schools Close Could Improve Accountability and Ease Student Transitions*, Washington, D.C.: Author, 2005.
- Hassel, Bryan C., *Fast Break in Indianapolis: A New Approach to Charter Schooling*, Washington, D.C.: Progressive Policy Institute, 2004.
- Hassel, Bryan C. and Michelle Godard Terrell, *Rugged Frontier: A Decade of Public Charter Schools in Arizona*, Washington, D.C.: Progressive Policy Institute, 2004.
- Hassel, Bryan C., Michelle Godard Terrell, and Julie Kowal, *Florida Charter Schools: Hot and Humid with Passing Storms*, Washington, D.C.: Education Sector, 2006.
- Hassel, Bryan C., Todd Ziebarth, and Lucy Steiner, *A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, Denver, CO: Education Commission of the States, 2006.
- Kolderie, Ted, *Model State Charter School Bill*, St. Paul, Minnesota: Charter Friends National Network.
- Lake, Robin J., *Seeds of Change in the Big Apple: Charter Schooling in New York City*, Washington, D.C.: Progressive Policy Institute, 2004.
- Lake, Robin J., *Holding Charter Authorizers Accountable: Why It Is Important and How It Might Be Done*, Seattle, WA: Center on Reinventing Public Education, 2006.
- Lake, Robin J. and Lydia Rainey, *Chasing the Blues Away: Charter Schools Scale Up in Chicago*, Washington, D.C.: Progressive Policy Institute, 2005.
- Mead, Julie F., *Charter Schools Designed for Children with Disabilities: An Initial Examination of Issues and Questions Raised*, Alexandria, VA: National Association of State Directors of Special Education, 2008.
- Mead, Sara, *Capital Campaign: Early Returns on District of Columbia Charter Schools*, Washington, D.C.: Progressive Policy Institute, 2005.
- Mead, Sara, *Maintenance Required: Charter Schooling in Michigan*, Washington, D.C.: Education Sector, 2006.
- Mead, Sara and Andrew J. Rotherham, *A Sum Greater Than the Parts: What States Can Teach Each Other About Charter Schooling*, Washington, D.C.: Education Sector, 2007.
- Millot, Marc Dean, *Autonomy, Accountability, and the Values of Public Education: A Comparative Assessment of Charter School Statutes Leading to Model Legislation*, RAND, 1994.
- Miron, Gary, *Strong Charter Schools Are Those That Result in Positive Outcomes*, Paper presented at American Educational Research Association Annual Conference, April 11-15, 2005.

National Alliance for Public Charter Schools, *Principles and Standards for Quality Charter Support Organizations*, Washington, D.C.: Author, 2008.

National Alliance for Public Charter Schools, National Association of Charter School Authorizers, Colorado League of Charter Schools, and the Center for Research on Education Outcomes, *A Framework for Academic Quality: A Report from the National Consensus Panel on Charter School Academic Quality*, Washington, D.C.: National Alliance for Public Charter Schools, 2008.

National Alliance for Public Charter Schools, National Association of Charter School Authorizers, Colorado League of Charter Schools, and the Center for Research on Education Outcomes, *A Framework for Operational Quality: A Report from the National Consensus Panel on Charter School Operational Quality*, Washington, D.C.: National Alliance for Public Charter Schools, 2009.

National Association of Charter School Authorizers, *Charter School Authorizer Evaluation Pilot Framework*, Chicago, IL: Author, 2009.

National Association of Charter School Authorizers, *Dollars and Sense: Funding Authorizers Responsibly*, Chicago, IL: Author, 2009.

National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing*, Chicago, IL: Author, 2007.

National Association of State Directors of Special Education, *Primers on Implementing Special Education in Charter Schools*, [http://www.uscharterschools.org/cs/spedp/print/uscs\\_docs/spedp/home.htm](http://www.uscharterschools.org/cs/spedp/print/uscs_docs/spedp/home.htm).

Russo, Alexander, *A Tough Nut to Crack in Ohio: Charter Schooling in the Buckeye State*, Washington, D.C.: Progressive Policy Institute, 2005.

Schroeder, Jon, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State*, Washington, D.C.: Progressive Policy Institute, 2004.

Smith, Nelson, *Catching the Wave: Lessons from California's Charter Schools*, Washington, D.C.: Progressive Policy Institute, 2003.

Smith, Nelson, *Texas Roundup: Charter Schooling in the Lone Star State*, Washington, D.C.: Progressive Policy Institute, 2005.

Thomas B. Fordham Institute, *Charter School Funding: Inequity's Next Frontier*, Washington, D.C.: Author, 2005.

Thomas B. Fordham Institute, National Alliance for Public Charter Schools, and National Association of Charter School Authorizers, *Turning the Corner to Quality: Policy Guidelines for Strengthening Ohio's Charter Schools*, Washington, D.C.: Authors, 2006.

U.S. Department of Education, Office of Innovation and Improvement, *Supporting Charter School Excellence Through Quality Authorizing*, Washington, D.C.: Author, 2007.

Witte, John, Arnold Shober, and Paul Manna, *Analyzing State Charter School Laws and Their Influence on the Formation of Charter Schools in the United States*, Paper prepared for the American Political Science Association, 2003 Annual Meeting, Philadelphia, PA, August 28-31, 2003.

Wong, Kenneth K. and Francis X. Shen, *Charter Law and Charter Outcomes*, Paper prepared for the National Conference on Charter School Research, Vanderbilt University, Nashville, TN, September 29, 2006.

Ziebarth, Todd, *Peaks & Valleys: Colorado's Charter School Landscape*, Washington, D.C.: Progressive Policy Institute, 2005.

Ziebarth, Todd, *Stunting Growth: The Impact of State-Imposed Caps on Charter Schools*, Washington, D.C.: National Alliance for Public Charter Schools, 2006.

Ziebarth, Todd, *Peeling the Lid off State-Imposed Charter School Caps*, Washington, D.C.: National Alliance for Public Charter Schools, 2007.



The National Alliance for Public Charter Schools ([www.publiccharters.org](http://www.publiccharters.org)) is the national nonprofit organization committed to advancing the charter school movement. The Alliance provides assistance to state charter school associations and resource centers, develops and advocates for improved public policies, and serves as the united voice for this large and diverse movement. Currently, more than 1.4 million students attend 4,600 public charter schools in 40 states and the District of Columbia. The first charter school opened in Minnesota in 1992.



# Appendix D



Recommendations to the

**Charter School Governance, Accountability and Authority Task Force**

September 21, 2011



September 21, 2011

**Memorandum**

**To:** The Charter School Governance, Accountability and Authority Task Force

**From:** National Association of Charter School Authorizers

**Re:** Charter School Authorizing Roles and Responsibilities including  
Charter School Administrative Office Staffing

The Charter School Governance, Accountability and Authority Task Force has asked the National Association of Charter School Authorizers (NACSA) to provide a recommendation on the roles and responsibilities of the Charter School Review Panel (CSRP) and Charter School Administrative Office (CSAO) and on the staffing of the Charter School Administrative Office.

Recommendation

*CSRP and CSAO Roles*

Across the nation, years of experience within the charter school sector has shown that a high quality authorizer is an essential component of a high quality charter school system. States that have quality authorizing or more likely to have quality charter schools; states that do not have quality authorizing are more likely to have many low quality charter schools.

Hawaii is operating without a quality authorizer because the Charter School Review Panel is not adequately supported by a skilled, professional staff. This statement is not a criticism of the individuals on the CSRP or employed by the CSAO, who appear to be working diligently. Rather, the work of the CSAO is not well-aligned with the needs the CSRP. This lack of alignment produces numerous situations in which there is a significant lack of charter school oversight.

The CSRP should function as Hawaii's charter school policy-setting body. These policies would include:

- Establishing criteria and process for evaluating and approving charter school applications,
- Setting school performance standards for academics, finances, governance and compliance and the processes for monitoring school performance,
- Establishing the criteria and processes for intervening in schools that are failing to meet performance standards,
- Setting the criteria and process for charter school renewal decisions.

The CSAO can develop and recommend policies to the CSRP and should administer policies established by the CSRP. The CSRP should also make all high-stakes decisions to approve or deny charter school applications, to intervene in charter schools that are failing to meet the terms of their contract, and to revoke, renew or not renew a charter. The CSAO should collect, monitor, and analyze school information based on the CSRP policies. The CSAO should also make recommendations to the CSRP to intervene, renew, not renew and revoke charters.

### *CSAO Staffing*

The staff of the CSAO should be re-purposed from its current role, school administration, to a new role focused on school performance and accountability. All but a small portion of the CSAO's capacity is now spent on administering *school inputs*; it should instead be focused *school outcomes*.

While the Department of Education has many staff dedicated to public school administration, no one in Hawaii is focusing on charter school performance and accountability other than the volunteer, part-time members of the Charter School Review Panel. Yet, while charter school performance and accountability is neglected, much of the work of the CSAO replicates Department administrative functions.

To shift its focus to performance and accountability, the staff and budget of the CSAO does not necessarily need to be larger; it needs to shift its functions. The CSAO should seriously consider removing itself from school personnel and information systems management, which are functions already provided by the Department that could also be provided to charter schools.

The new performance and accountability role and functions of the CSAO could be successfully performed by a staff comprised of the following positions.

**Executive Director** implements state charter school policies as established in law and by the Charter School Review Panel. The Executive Director:

- Serves as the primary contact to the Panel,
- Ensures the efficient and effective operation of all CSAO functions,
- Manages CSAO staff, including hiring, evaluating and compensating staff, and
- Allocates and manages CSAO resources.

**Applications Director** designs and manages the processes for new charter school applications and existing charter school renewals. The Applications Director:

- Facilitates outreach and communication to potential charter school applicants that enables applicants to understand the application process and criteria,
- Produces the annual application documents, and
- Manages the evaluation of applications and produces recommendations for the Charter School Review Panel.

**Accountability Director** manages the processes for executing, monitoring, renewing and revoking a school's charter after the application is approved by the Panel. The Accountability Director:

- Manages the process for executing each school's legal contract and acts as the custodian of the office's legal records,

- Manages the process for notifying schools of any failures to meet the terms of their charter and the process for intervening at or revoking a charter, and
- Manages the process for evaluating charter school renewals and produces recommendations for the Charter School Review Panel.

**Academic Performance Director** establishes and manages systems for defining, collecting and evaluating charter schools' academic performance. The Academic Performance Director:

- Works with the Panel and schools to establish objective, measurable and multiple academic performance standards that apply to all charter schools;
- Stays current on all applicable state and federal public school accountability laws and ensures that all charter schools are participating appropriately in the state's standardized testing system,
- Evaluates each school's academic performance data in comparison to the established performance standards, and
- Provides an annual report on each school's performance to each school, the Charter School Review Panel and the public.

**Compliance Director** monitors each charter school's compliance with applicable laws and programmatic requirements. The Compliance Director:

- Monitors the start-up of new schools and assess each school's readiness to open, and
- Establishes and manages systems for collecting, evaluating and acting upon data on school's compliance with a wide variety of laws and regulations.

**Finance Director** evaluates a variety of documents to continuously assess the financial viability of charter schools. The Finance Director:

- Reviews schools' annual budgets at the beginning of each year to determine if the budget presents a viable plan for school operations that is based on realistic income and expense assumptions,
- Reviews quarterly or mid-year school financial reports to determine each school managing its finances in accordance with the annual budget,
- Reviews each school's annual audit to determine if appropriate financial management systems are in place and if the school is a financially viable, and
- Manages disbursement of funds to charter schools.

**Administration Director** brokers interactions between charter schools and divisions and programs within the Department of Education. The most significant of these are likely to be special education and Title programs. The Administration Director:

- Works with charter schools and Department staff to establish appropriate reporting systems from charter schools to the Department and appropriate services and funding from the Department to charter schools, and
- Because a good Administration Director must have skills to listen, evaluate and act diplomatically in a wide range of situations, the Administration Director should also be skilled at and responsible for managing parent questions and complaints about charter schools.

NACSA believes that, for an office that oversees 31 schools, each of the above functions could be performed successfully by a single individual. Four additional administrative support staff would also likely be needed.

As the number of charter schools increases, the work load will grow in some areas more than others. Those pressures will likely occur in Compliance, Finance and Administration. Every effort should be made to establish efficient, not labor intensive, systems in these areas that can accommodate growth in the number of schools. The primary benefit of establishing efficient systems is that they are also efficient for the schools, minimize their administrative burdens and allow them to maximize their attention to instruction.

An efficient charter schools office, like the one recommended here, focuses on school performance and outcome. It provides clarity, stability and predictably to charter schools themselves. It also provides clarity of expectations the legislature and general public. Most importantly, it provides the best opportunity for students to receive a high quality instruction.



September 21, 2011

## **Memorandum**

**To:** The Charter School Governance, Accountability and Authority Task Force

**From:** National Association of Charter School Authorizers

**Re:** Expanding Charter School Authorizing in Hawaii

The Charter School Governance, Accountability and Authority Task Force has asked the National Association of Charter School Authorizers (NACSA) to provide on a recommendation on whether or not Hawaii should establish additional charter school authorizing bodies.

### Recommendation

After a thorough review of the practices of the Charter School Review Panel and the Charter School Administrative Office (CSRP and CSAO), as well as numerous discussions with charter school operators and applicants and with public officials, NACSA recommends that Hawaii not establish an additional charter school authorizer at this time. Hawaii should fix its current authorizing arrangement first and only establish another authorizer after the current system is functioning well.

The existing charter school system in Hawaii functions poorly and, in some situations, not at all. If Hawaii were to establish new authorizers without fixing the current system, the current problems may never be fixed and the weaknesses of the current system would likely transfer to the new authorizer. Creating new authorizers now would increase Hawaii's charter school problems, not solve them.

### Rationale

NACSA recommends against the immediate establishment of additional authorizers in Hawaii for several reasons.

Too many authorizers in a state can lead to a race to the bottom. NACSA is not opposed to a policy of multiple authorizers. In fact, NACSA believes that is usually desirable for there to be more than one authorizing entity in a state, especially if the existing authorizer has proven to be hostile to charter schools. However, we caution against the creation of more authorizers in states where the existing authorizer or authorizers have demonstrated an inability to maintain high standards for schools' academic performance, operations, and finances. In these "low standards" states, the creation of multiple authorizers has lead to a race to the bottom by low quality charter schools in those states.

In these situations, when a “high standards” authorizer attempts to apply those high standards to a weak charter school applicant or to an existing, weak charter school, the weak applicant/school simply avoids the high standards authorizer and applies to a low standards authorizer. In places where this has occurred (Ohio and Minnesota are the most frequently cited examples), it does not matter how well the high standards authorizer does its job, because the low quality applicants and schools can always survive by going to the low standards authorizer.

After many years of frustration with the uneven quality of charter schools in their states, both Ohio and Minnesota have now passed laws designed to hold authorizers accountable for their work and to take away the authorizing powers of low standards authorizers. This has proven to be a lengthy, expensive and difficult process that could have been avoided if these states had not originally thrown open the authorizer door too widely.

A good authorizer can and should accommodate schools with unique missions. Educational innovation and differentiation are core components of the charter school philosophy. Unlike the traditional school district model, charter schools in a state or community are *supposed* to be different from each other. Authorizers are supposed to hold charter schools accountable primarily for outcomes, rather than inputs. Thus, the presence of Hawaii culture and language charter schools falls squarely within the charter philosophy and a single authorizer can effectively oversee schools with many different educational philosophies and programs.

The weaknesses of Hawaii’s current charter school system are a function of poorly-defined roles and responsibilities, not the number of schools authorized by the CSRP. The CSAO has a staff of 12 and the CSRP has a staff of 1.25. Their combined operating budget exceeds \$1 million. The problem is not a lack of capacity. Rather, the CSAO staff duplicates some functions performed at the Department of Education (e.g. student information systems, payroll) and yet does not perform other functions that are essential for quality authorizing (e.g. application evaluation, performance monitoring). A well-designed, well-managed authorizing agency could oversee more than the 31 charter schools currently under the CSRP/CSAO umbrella by shedding duplicative functions and implementing efficient systems to monitor school outcomes.

#### The Route to a Second Authorizer

In the long run, Hawaii would benefit from the presence of two high-quality authorizers. Once the CSRP/CSAO arrangement is functioning well, the purpose of creating a second high-quality authorizer is to minimize the tendency of all bureaucracies to slowly and continuously generate new regulations.

Under a single authorizer model, as more charter schools are established, more funds flow to the authorizer, who hires more staff – because the money is there, not because they are needed. More staff people generate more requirements for schools and, before long charter schools lose the freedom to be innovative and to excel.

A second, high-quality authorizer functions as a check against this growth in two ways. First, on a day-to-day level, the staff of the two authorizers can discuss challenges and learn from each other, finding less regulatory ways to monitor schools. Second, if one authorizer becomes too regulatory, schools can switch to the other. This model only works if both authorizers are committed to excellence (which is why the current CSRP/CSAO arrangement must first be fixed).

To maintain a high standard for quality over the long run, Hawaii should also implement a system of authorizer accountability (the subject of a second memorandum).

The following is a proposed timeline, including benchmarks, for establishing a second authorizer:

<b>Dates</b>	<b>Actions</b>
<b>Now through December 2012</b>	Implement new CSRP/CSAO system, including clear lines of authority from CSAO staff to CSRP, new charter school application evaluation system, a contract between all charter schools and the CSRP, thorough monitoring systems, and a transparent renewal system focused on measurable student outcomes
<b>January – June 2012</b>	Enact legislation to clarify and correct the roles and responsibilities of CSRP and CSAO and to establish an authorizer accountability system
<b>January 2013 – April 2013</b>	Evaluate function of CSRP/CSAO against national standards
<b>April 2013 – June 2013</b>	Legislature considers establishing a second authorizer based, in part, on CSRP/CSAO evaluation
<b>July 2013 and thereafter</b>	Second authorizer is established with first set of new schools targeted for Fall 2014



September 21, 2011

## Memorandum

**To:** The Charter School Governance, Accountability and Authority Task Force

**From:** National Association of Charter School Authorizers

**Re:** Creating a System of Authorizer Accountability

The Charter School Governance, Accountability and Authority Task Force has asked the National Association of Charter School Authorizers (NACSA) to provide recommendations on how to establish a system of accountability for the performance of the entity or entities that authorize charter schools.

### Background

In the early years of the charter school movement, there was a belief among many charter school advocates that parents would provide the primary accountability for charter schools by only choosing good schools. After several years, it became clear that parental choice *alone* was not sufficient to provide strong accountability for low-performing schools. Parents often lacked good information about school academic performance and had no information about other aspects of school performance that are important to the public, such as financial management and compliance with certain laws.

Across the nation, state policy makers realized that authorizers need to be the primary accountability agents for charter schools. Yet, many of them have never developed policies and practices that are strong enough to weed out weak charter school proposals, adequately monitor school behavior, or close low-performing schools. As a result, law makers are now looking for policies that can incent authorizers to put strong practices in place and for ways to intervene if they fail to do so.

This is an emerging field and few states have enacted laws that address authorizer accountability. Four approaches have emerged.

1. Some state **legislatures** have terminated the powers of some authorizers through an act of law. The Ohio legislature terminated the authorizing powers of the state's department of education. The Louisiana legislature terminated the authorizing powers of any school district in academic crisis. Charter school advocates and authorizers are often concerned that legislative action in this area will be driven by politics rather than quality.
2. In some states, the legislature has given the **State Board of Education authority** to approve and/or terminate an authorizer. Minnesota has used this power to eliminate dozens of

authorizers. In Ohio, this power has been used much more selectively and only one authorizer has been terminated. Missouri directed its state education department to develop and enforce authorizer accountability standards, but the department has not taken any action to do so. Charter school advocates and authorizers are often concerned that state departments of education are compliance-driven bureaucracies that are particularly ill-suited to make judgments about charter school authorizing.

3. Some states have directly addressed the root issue and have passed laws to **automatically close** any charter school that fails to achieve certain statutorily-defined performance benchmarks. Ohio has closed approximately ten schools in this manner. California passed a similar law, but attached a number of loopholes that have made the law ineffective. Some charter school advocates are concerned that academic performance data (like AYP) is usually too crude to use as the sole basis of a closure decision.
4. Finally, some states (e.g. Louisiana, Wisconsin) have written into law that authorizers must follow NACSA's ***Principles and Standards for Quality Charter School Authorizing***. This approach clearly communicates the legislature's expectations to authorizers, but by itself it has no direct enforcement mechanism. An approach under development in Colorado would establish these standards in law and policy, and then use evidence that an authorizer has met those standards as part of the process whenever the State Board considers appeals of decisions by the district authorizers.

### Recommendation

Because there are so few examples of successful authorizer accountability systems, Hawaii has the opportunity to develop and implement a system that meets its own needs and potentially serve as a model for the rest of the nation.

NACSA recommends that Hawaii establish a layered approach to accountability that establishes real standards and safeguards against low performance while minimizing the risks of any individual component of the strategy.

1. Require the Charter School Review Panel (and any subsequent authorizers) to establish a **performance framework** that includes all schools and that, for each school, articulates multiple, objective, measurable performance criteria as well as the levels of performance that each school will be expected to reach as a condition of renewal. The performance criteria should include multiple measures of academic performance (e.g. status, growth, comparisons) as well as financial and operational criteria.
2. Require the Charter School Review Panel (and any subsequent authorizer) to **annually report** to each school, the legislature and the public on the performance of each charter school on each element of the performance framework. While an authorizer is not directly responsible for the performance of any individual school, it is responsible for the collective performance of all of the schools it oversees. If most or many charter schools persistently fail to perform at acceptable levels, it is appropriate for the legislature to question the performance of the authorizer and to consider removing that authorizer's powers.

3. Require the Charter School Review Panel (and any subsequent authorizers) to comply with NACSA's ***Principles and Standards for Quality Charter School Authorizing***. Each year, require the Panel to report to the legislature on the number of core authorizing practices, as identified in NACSA's *Index of Basic Practices*, which the Panel meets. Every 3 to 5 years, require an independent, comprehensive evaluation the Panel's compliance with NACSA's standards and a report to the legislature.
4. Establish a **minimum academic performance standard in state law** that applies to charter schools that are up for renewal. A school that fails to meet the standard would close unless its authorizer votes to keep the school open, by a vote of a majority or super-majority of the Panel based on an explanation of what is unique about the school (not using promised change or improvement as grounds for continued operation).

Recommendations 1, 2 and 4 are appropriately focused on what matters most, the quality of school outcomes, while the third recommendation holds the Panel accountable for its own actions. Altogether, this approach will provide schools, the public and the legislature with a robust set of appropriate information about the performance of Hawaii's charter school sector and will enable future policy decisions to be informed by standards and quality rather than partial information or politics.



September 21, 2011

## **Memorandum**

**To:** The Charter School Governance, Accountability and Authority Task Force

**From:** National Association of Charter School Authorizers

**Re:** Charter School Board Governance

The Charter School Governance, Accountability and Authority Task Force has asked the National Association of Charter School Authorizers (NACSA) to provide recommendations on the role, composition, skills, and training of charter school governing boards (also known as Local School Boards).

NACSA believes that the governing board is a central element of a successful charter school. A charter school governing board has a multi-year, multi-million dollar agreement with the State to provide public education services to children. This arrangement places significant educational, financial, legal and moral responsibilities on the governing board. It is not a PTA, an advisory board, a legislative body or a representative democracy. A charter school governing board must be viewed for what it is: a serious legal partner with serious responsibilities.

Board training is one part of successful governance, but is not likely to be effective if a board does not also have the necessary structure, skills, roles and responsibilities. Further, successful training cannot be viewed as a one-time, externally-imposed activity. A healthy board creates and sustains a set of improvement behaviors that will keep itself focused and keep the school moving forward.

### **The Ultimate Success of the School Depends on a Strong, Effective Board**

Much of the ultimate success of a charter school hinges on the board's ability to govern effectively. In fact, it can be argued that no other single factor is more important to the health and sustainability of a charter school than its board.

It is the board that selects, supports, and terminates when necessary, the school leader. It is the board that ensures that the school is operationally and financially viable. It is the board that partners with the school leader to define academic excellence and then holds the bar high insisting that the school delivers.

### **The Key Steps to Creating and Sustaining Effective Governance**

#### **1. Clearly Define the Intent of a Charter School Board**

In nearly every case that charters have been revoked, there is a direct line back to ineffective

governance. Much of this comes from an ill-conceived idea of what a charter school governing board is, who should be on it, and what it should do. The intent of a charter school governing board is not a glorified parent teacher organization (PTO), or a collection of well-meaning people, but rather:

A highly effective team, strategically assembled, to bring the skills, expertise, temperament and time to govern a multi-million dollar public enterprise.

## **2. Insist on Strong, Effective Governance from the Very Beginning**

It is vital that strong, effective governance is developed from the outset—this means in the founding and charter application phase. Initially it was common that loose founding groups were encouraged to form as interim entities during the chartering phase with the intention that after chartering the “real” board would be assembled. We have learned over the 15+ years of chartering that this was a flawed concept for a variety of reasons. The most significant being:

- An authorizer’s success in creating quality public schools hinges upon knowing who they are giving the charter to, making sure that they are prepared to govern effectively, and ultimately holding them accountable for the performance of the school. Therefore, successful authorizing must place a great deal of stock in vetting, probing, and orienting the actual board, not a proxy.
- Learning how to govern effectively is hard work and takes time, the sooner the “real “ board has formed and starts functioning like an effective governing board the better.
- Boards that get it right from the outset are likely to deliver on the academic promises outlined in their charters. Boards that start out on the wrong foot are almost certain not to deliver the academic excellence their students deserve.

## **3. Capacity and Composition**

Very often the initial composition of the founding board that is pulled together for the charter application process is flawed. More often than not these initial boards lack a level of objectivity by being close personal friends and colleagues of the lead founder, are comprised of members who were placed on the board to “lend their names and credibility,” generally are not prepared to carry out the hard work of governing a start-up charter school, are unclear about the time commitment this will require, and/or lack the right mix of skill sets and tangible ties to the community, or are people who hope to work in or benefit from the school in some way.

The capacity/composition of the founding board should be evaluated carefully and should focus on these key questions:

- Do the members have the skills, time, and experience to do the job? Does the board have the financial capacity to run a multi-million dollar enterprise? Does the board have the skills to properly conduct oversight of the academic program?
- Does the board have a diversity of perspective and experience to truly represent the public’s interest?
- Is there a level of objectivity on the board or are the members close personal friends or relatives? Are there obvious conflicts of interests that need to be addressed?

**Skills, expertise and time.** The board should be comprised of individuals who are recruited to bring particular skills to the board. There should be strong financial management, academic oversight, human resources, fundraising, real estate and legal expertise on the founding board. In addition, at least one-third of the board should have prior governance experience. In the key areas where charter school boards typically fail—financial management and academic oversight—there should be some demonstrated “bench strength” or at least a plan to recruit additional members with these skills.

The amount of time it takes to be an effective charter school board member is often underestimated. Typically a charter school board member needs to be able to devote eight to ten hours a month to the school when it is up and running and even more during the founding phase. Authorizers should ask probing questions about founding board members’ availability. For example, how many of the founding board members plan to transition to the governing board upon chartering? Will the whole board turn over? Do the board members fully grasp the time commitment this endeavor will require and are they prepared to deliver? Conversely, has the founding group set up a sustainable time commitment for board members or are they asking for something that simply cannot be sustained?

**Diversity.** The board should bring as much diversity of perspectives and opinions as possible to truly represent the public interest. The board should be diverse in the broadest sense of the term, including ethnicity, gender, age, geography, and socio-economic background. Are there enough board members with connections to the community they are planning to serve? Do they truly understand the community? Are they receiving appropriate/authentic community input?

**Level of objectivity.** When launching a new endeavor, entrepreneurs generally turn to their closest friends and smartest allies. This bears out in the founding of charter schools. Typically a few committed people sit around the kitchen table and “dream the dream.” By the time an application has been submitted for chartering, the group should have already demonstrated an ability to go beyond a tight-knit group and recruit people from the broader community to be involved in this effort. The board recruitment and expansion efforts should be increasingly professional, and there should be clear evidence that this is a trend that will continue.

It is essential that authorizers point out both direct and inherent conflicts of interest. Many charter school boards have inherent conflicts in their board composition. These might escape the legal interpretation of “conflict” but certainly will lead to potential problems later. The most common examples include a husband/wife pair of board chair and school leader; husband/wife pairs on the board, siblings on the board, and so on. If the board’s responsibility is to replace an ineffective school leader who is hampering student achievement, and the board chair is the school leader’s spouse, the students are likely to be ill served, even though in many states this arrangement is within the laws and most ethics rulings.

**Selection not Election.** To create a strategically assembled team of skilled experts, charter school governing boards should always follow the best practices of non-profit governance and have a clear transparent nominating process. Open elections might feel more democratic but they do not lead to the right configuration of board members capable of governing a multi-million dollar public enterprise that delivers outstanding academic outcomes for all their students.

#### **4. Board Structure that will Lead to Effective Governance**

Authorizers should pay careful attention to the board’s structure, which is generally articulated in the charter school bylaws. Bylaws provide the basic parameters or general guidelines for how the board

operates. Although authorizers do not need to dictate specific requirements, they should identify key structures that lead to effective governance and require that these be included in the bylaws. For example, authorizers should consider:

- Is the board large enough to support effective governance and an effective committee structure?
- Are there term limits in place to help guard against “founder’s syndrome?”
- Are key officer positions in place?

**Board Size.** Most charter school boards are too small. Arguably a board comprised of five to seven people is too small to provide effective governance. For example, with a five-person board, a quorum would be only three members. This is not a credible number of people to make decisions about how to spend millions of taxpayers’ dollars. The most effective charter school boards have nine to eleven members by the time the school opens and eventually a board of eleven to fifteen at the end of the school’s first year. This is the right size to bring public credibility, the right mix of skills, and enough people to have functioning committees capable of accomplishing significant work in between meetings.

**Officers.** The bylaws should call for officers, particularly Chair, Vice Chair, Treasurer, and Secretary. Officers ensure an additional level of accountability by having key individuals responsible to the group for specific tasks and functions. In addition, officers help to ensure that the board does not become overly dependent on the school leader. The authorizer should expect that individuals have been identified and are prepared to step into these roles immediately and that the founding board has written job descriptions detailing the roles and responsibilities of each of these positions.

## 5. Clarity of Roles & Responsibilities

Confusion regarding the distinction between governance and management is a key element that plagues all types of boards—nonprofit, corporate, and certainly charter school boards. Many charter applications inadvertently create confusion before the charter is even granted by asking about the “founding group”—which can be comprised of lead teachers, potential board members, parents, etc. Authorizers should ask for and expect a clarification of roles from the very beginning, explicitly asking about the founding *board*. This is the entity that will ultimately answer to the authorizer.

**Board Roles and Responsibilities.** The application process should be designed to assess whether the full board understands its roles and responsibilities and whether there are clear performance expectations for individual trustees. The charter application should include a job description for the full board that spells out its role as well as written performance expectations for the individual trustees.

**School Leader’s Role.** In addition, the charter application should spell out the board’s intended relationship with the school leader. It is best to have only one-person report to the board. There are a few exceptional charter schools with co-directors or multiple reports to the board. If this is being proposed, the division of roles and responsibilities should seem logical. In general, the authorizer should be asking: Is there a clear delineation of roles and responsibilities between the board and the school leader? Does the group understand the distinctions between governance and management? Do they have a qualified school leader or a plan to identify one?

**Parents, Teachers, and Student Voices.** What will the role of parents, teachers and students be in governance? If the bylaws spell out the inclusion of parent, teacher, or student representatives on the board, does the structure seem to plausibly lead to effective governance? Does it seem particularly unwieldy? If the group is choosing a nontraditional structure, is this in sync with their charter?

Parent, teacher, and student voices are essential to running an effective school. However, having one or two seats on the board occupied by them usually does not lead to greater representation. In actuality, the board may have a false sense of security that they are hearing from their constituents when in fact, they are hearing from one or two particularly motivated individuals who may be far from representational of the group.

**Relationship with an ESP/CMO.** If the board is delegating responsibilities to an ESP or CMO, then they should be able to clearly define the parameters of this relationship. Have they clearly delineated the roles and responsibilities of the board as compared to the ESP/CMO? Are they prepared to conduct effective oversight of the ESP/CMO and have tools and measures in place to evaluate this group's performance on a regular basis? Are they delegating too much authority to the ESP/CMO?

### **Preparation: Governing for What Matters Most**

Many charter school boards spend too much of their energy worrying about governance mechanics, such as the size of the board, the number of committees and the use of Robert's Rules of Order, rather than focusing on governing for what really matters—the academic success of their students and the sustainability of the organization. The mechanics are essential—you need this scaffolding to create the structures and team to effectively govern—but they are in themselves not the end game. The end game is creating a school that delivers academic excellence.

Boards that are prepared to govern for what matters most:

- Demonstrate a passionate, unwavering belief in the school's mission and understand the implications of choosing this mission;
- Understand their charter, know what they are promising to deliver and have clear and consistent ways to measure success;
- Have a clear definition of academic excellence and understand their role in pushing the organization to achieving this;
- Have a plan to conduct effective oversight of the academic program; and
- Have a plan to oversee the financial health of the school.

## **6. Train AND Sustain**

Identifying the key ingredients above is essential – but putting it into action is even more vital.

It is important for any state to have a clear process to set expectations about the role and function of the charter school board and to develop a system to hold them accountable to delivering the promised results. But, in addition, there needs to be a parallel process aimed at training and sustaining strong governance. Effective charter school board training should include:

1. **Diagnostics:** Develop a process to assess strengths and deficits in current board practice. Ideally these diagnostics are administered via the web or in another type of scalable fashion so that the

individual school data and aggregate data can be analyzed to target limited training resources in the most effective manner, and on the most critical topics.

## 2. **Training for Boards**

If designed properly, the diagnostic tools can serve as a wake-up call to existing governing boards, helping them more fully articulate their strengths and the areas they need to improve. Ideally targeted training is developed to help boards where they have self-identified needing to improve.

Most charter school boards share a number of core challenges, including:

- Lack of clarity regarding exactly what they should be doing to ensure school-wide academic and organizational success.
- Confusion about how to measure their effectiveness and that of their school leader.
- A peer network to learn from and challenge the limits of what is possible.

## 3. **Tools to Sustain Effective Governance**

Where support for charter school boards does exist, it takes the form of in-person trainings and board retreats. While these methods are helpful they are only a start. To create and sustain effective governance there is a need for a much more systematic approach. A systematic approach should focus on:

- **Road-tested best practice so that boards don't reinvent the wheel.** Boards should be provided with tools, samples and documents that have been proven effective with a significant number of boards already. There is no need to reinvent the wheel. Most governance practices and policies are easily transferable from board to board.
- **The ability to learn while doing.** Instead of the "one-time hit" of a board training or retreat, board members and their school leaders should have access to web-based resources that allow them to constantly learn at their own pace.
- **Learn from peers across the country.** Board members and school leaders are often isolated. They should have an opportunity to access their peers across the country, troubleshoot issues together, share policies and approaches, and feel like they are a part of something larger than their own individual board. The Internet provides a platform to create these kinds of training opportunities.

**Create sustainable governance systems.** Learning to govern well is hard, but sustaining good governance is even harder. Term limits and the steep learning curve for new trustees add to the complexity of maintaining effective governance. Boards need systems, training and processes to build an institutional memory to sustain their organizational practices.

*Much of the material presented in this memo was produced at NACSA's request by The High Bar, a consulting firm that specializes in charter school governance.*



September 21, 2011

## Memorandum

**To:** The Charter School Review Panel  
The Charter School Governance, Accountability and Authority Task Force

**From:** National Association of Charter School Authorizers

**Re:** Selected Results from Charter School Leaders Survey

As part of its comprehensive evaluation of the Charter School Review Panel's authorizing practices, the National Association of Charter School Authorizers has conducted an online survey of charter school leaders' experiences with the Panel. The following pages present some selected findings from that survey.

In short, the survey confirms much of what NACSA observed during its evaluation of the Panel and the Charter School Administrative Office:

***Charter school leaders are not sure how their school is being evaluated but they report that they have autonomy in the operation of their school.***

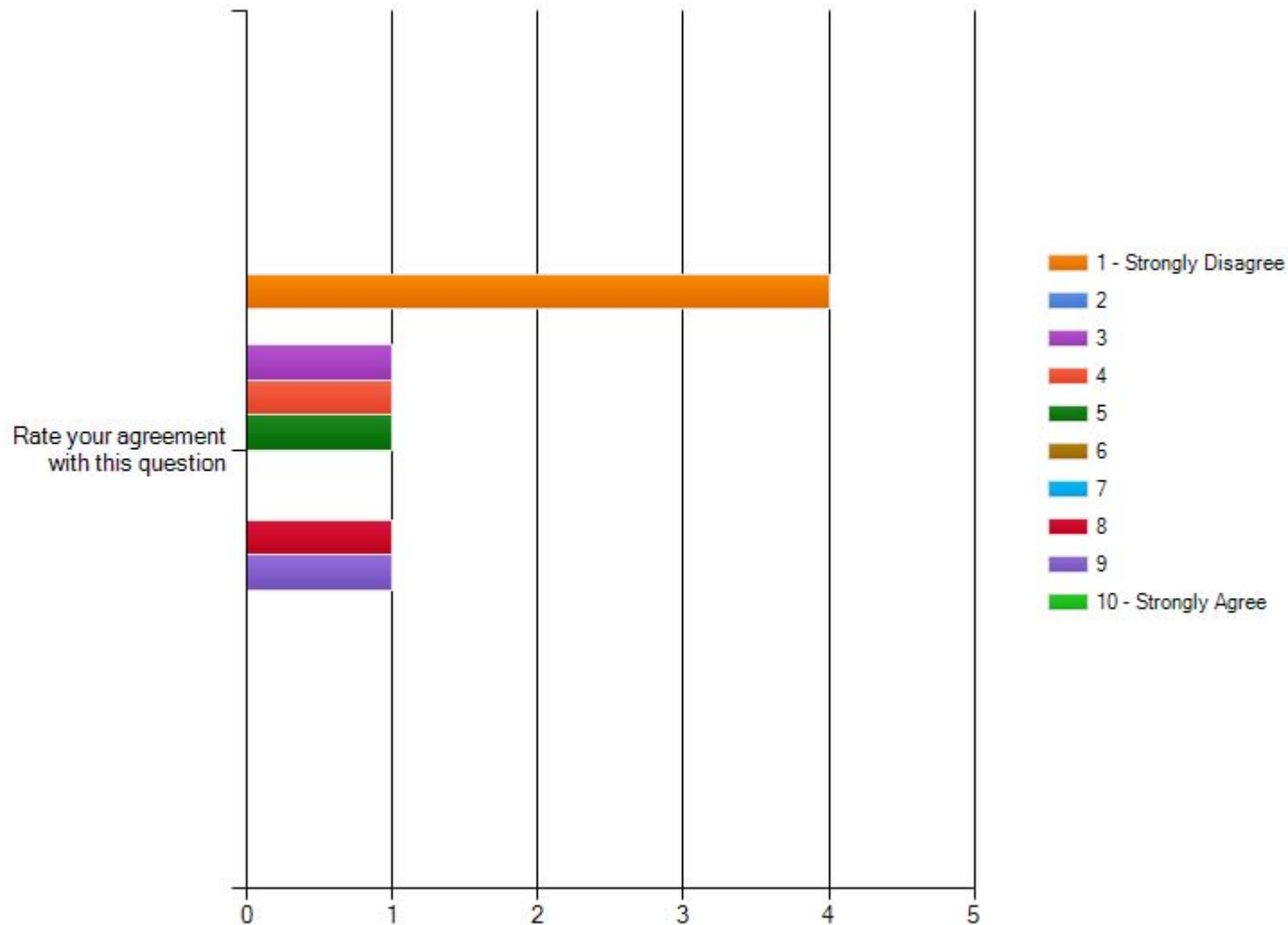
Following this memorandum are seven charts showing responses to a sampling of the questions NACSA posed to school leaders. The responses presented cover monitoring practices, school autonomy and renewal criteria. Although NACSA's survey also asked about the application process, almost none of the school leaders had experience with the CSRP's application process and we have omitted those items.

All school leaders were surveyed, but not all responded. Each leader was asked to respond a scale of 1 (Strongly Disagree) to 10 (Strongly Agree). For some items, the number of responses was less than ten and caution should be used when interpreting those results.

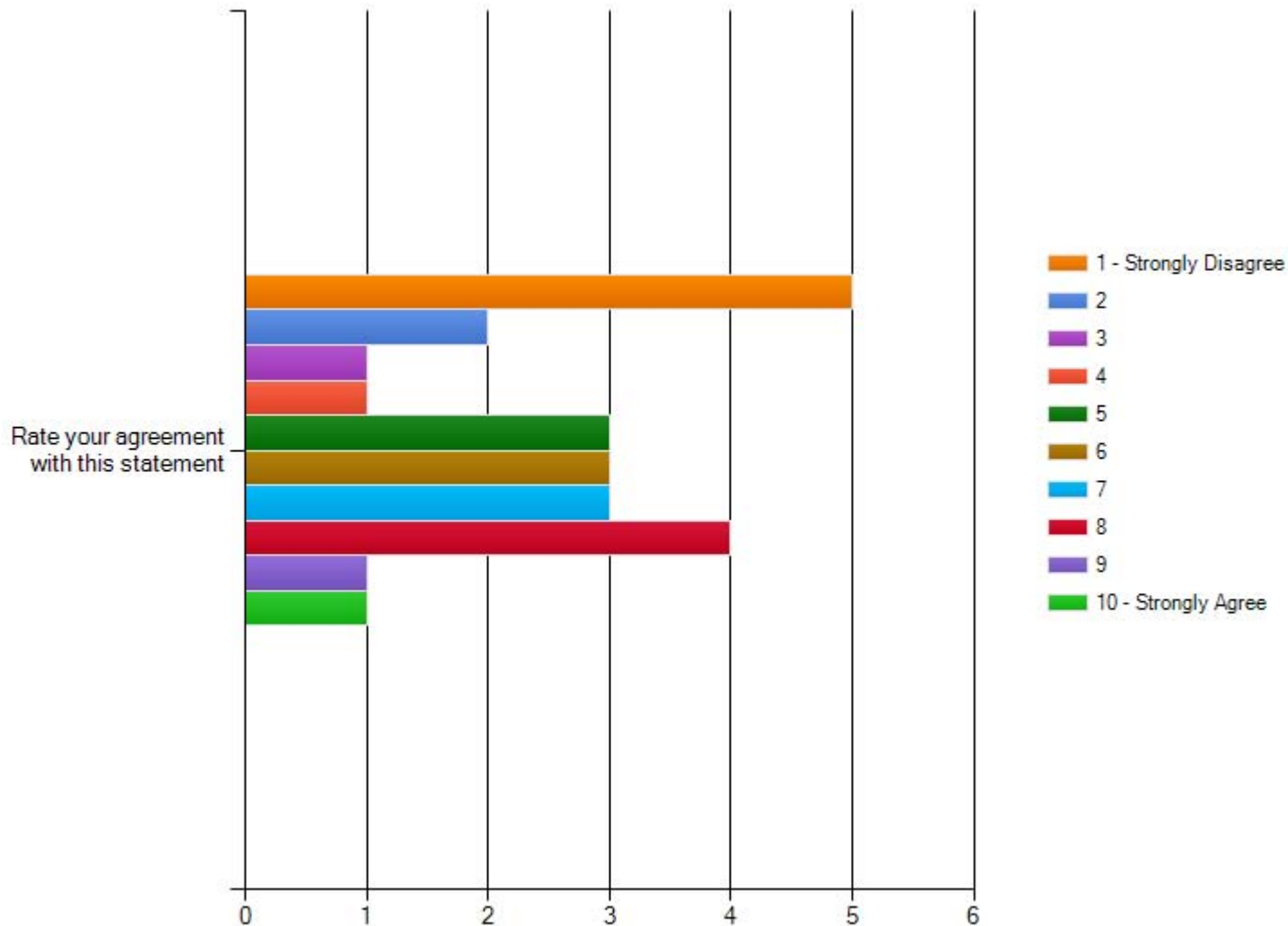
In some cases, a clear tendency is apparent (e.g. "CSRP has an accurate sense of how my school is performing.") Yet in others, the responses are more evenly distributed. For example, "We get clear feedback from CSRP about how we are performing" produced at least one response in each of the ten categories. Such a wide range of responses appears to indicate an uneven level of interaction or communication between the CSRP and the schools.

This type of online survey is easy to perform and we recommend that the CSRP and CSAO implement their own survey on an annual basis to monitor their performance.

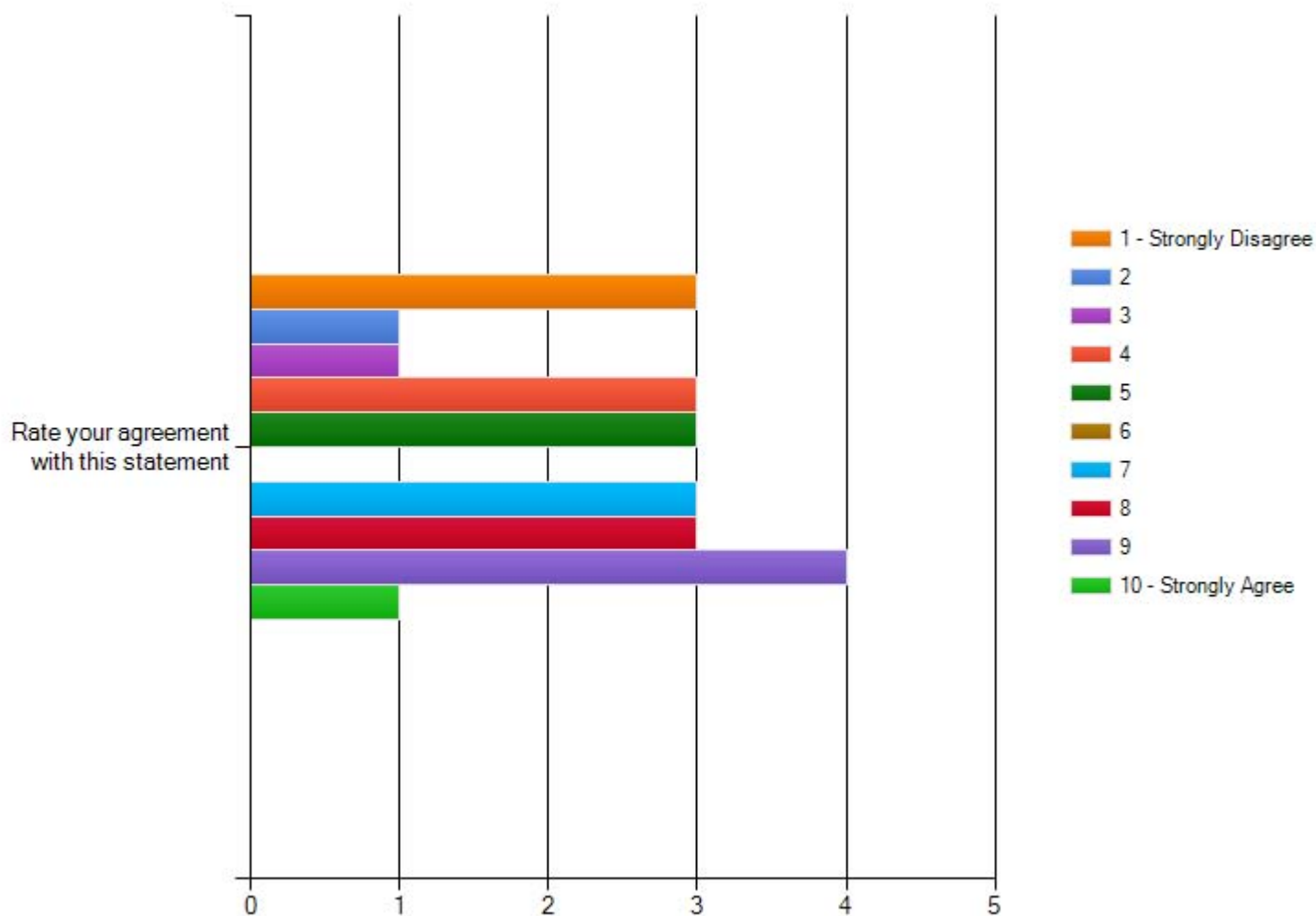
## CSRP has an accurate sense of how my school is performing.



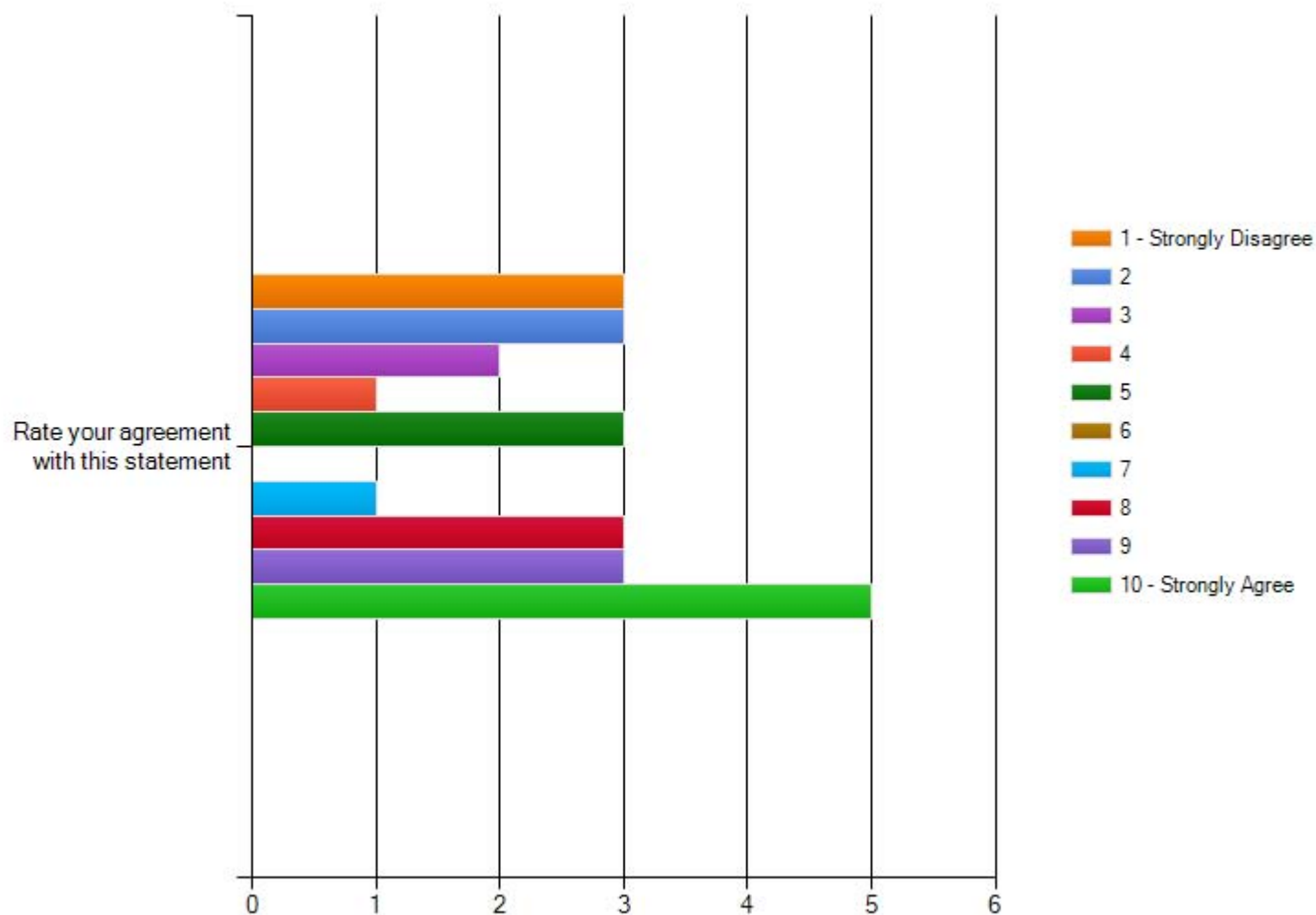
**We get clear feedback from CSRP about how we are performing.**



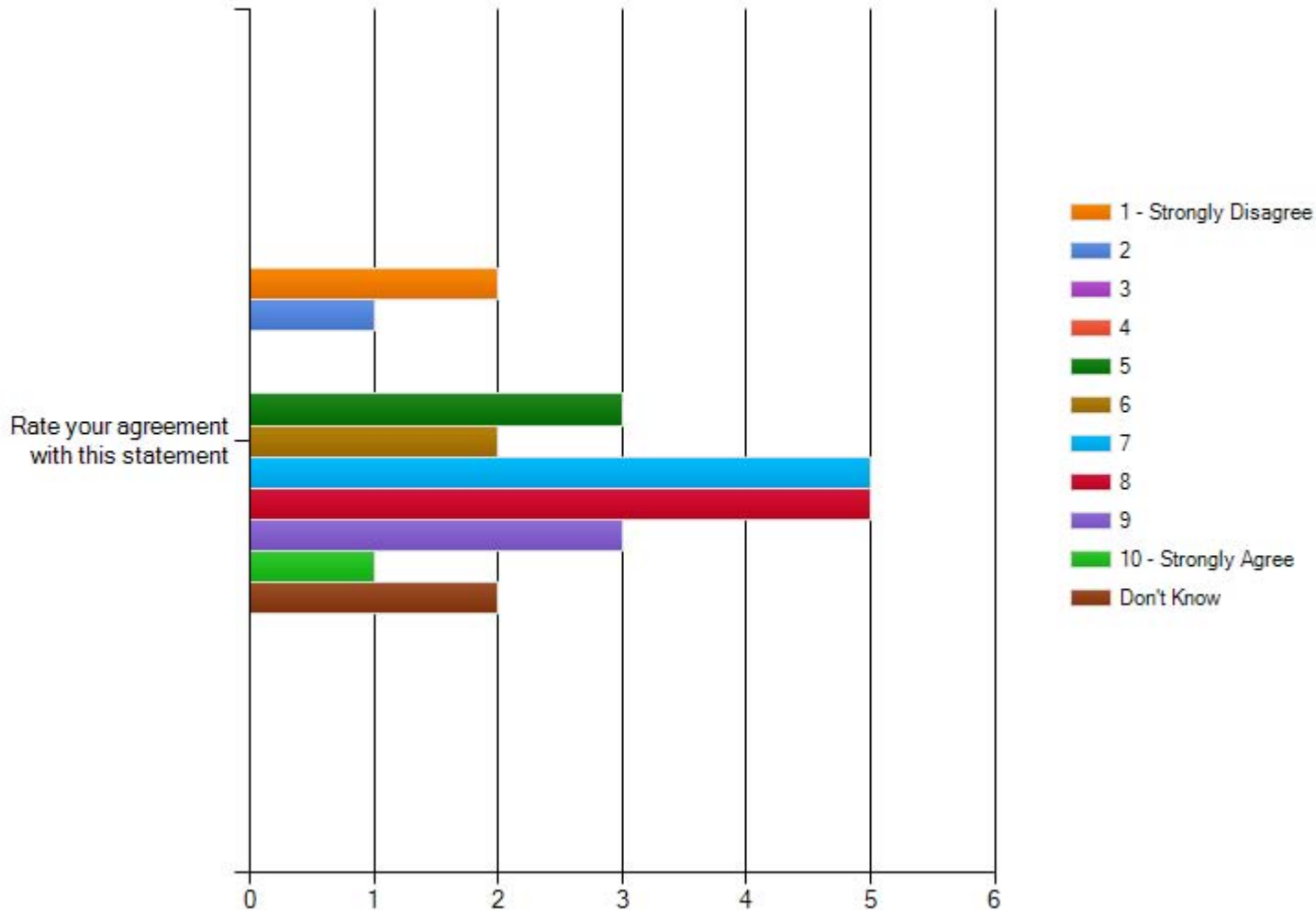
**If there is a problem or concern about the school's progress, CSRP  
lets us know.**



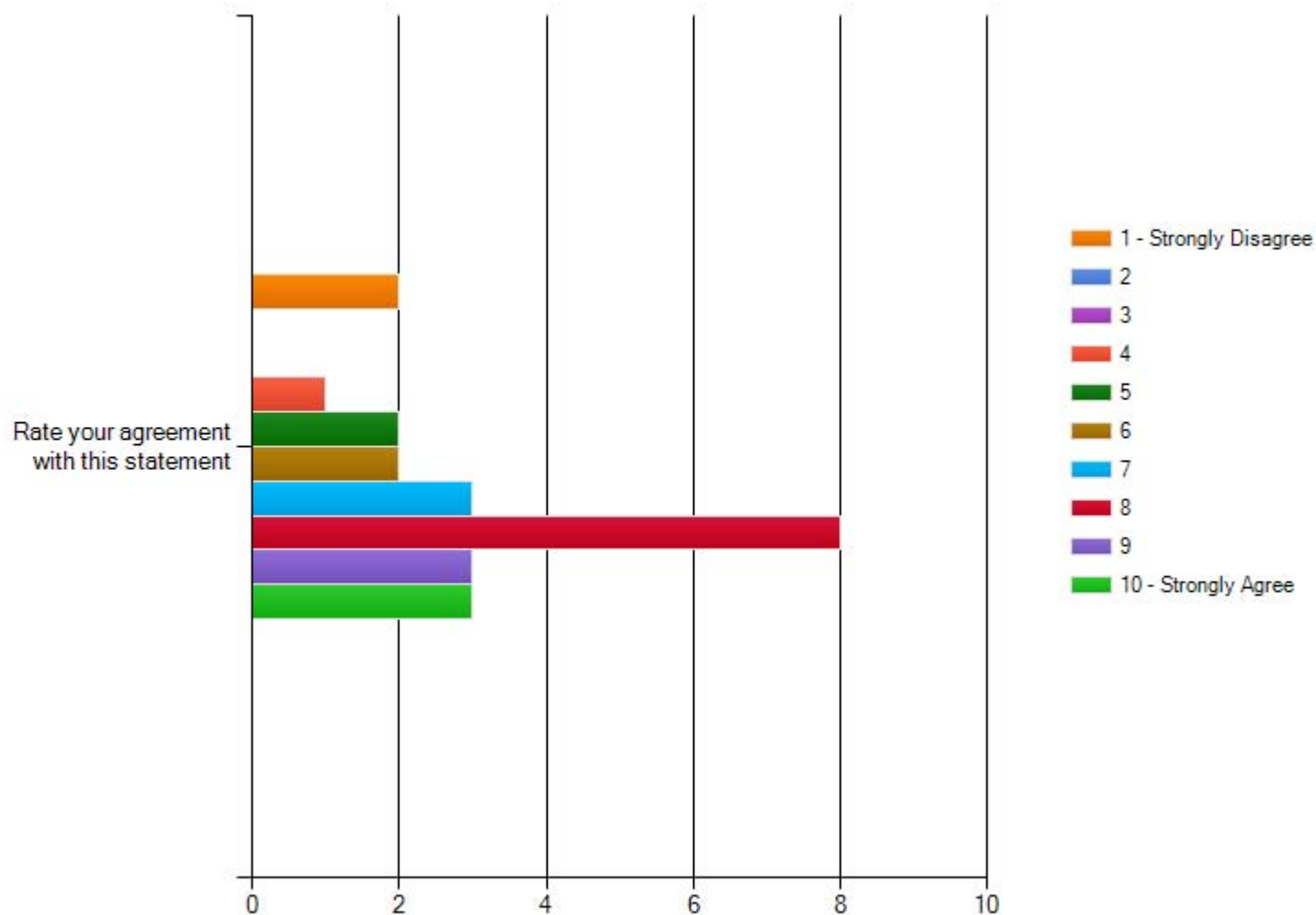
**If we have a question or concern, there is someone at CSRP that we can contact.**



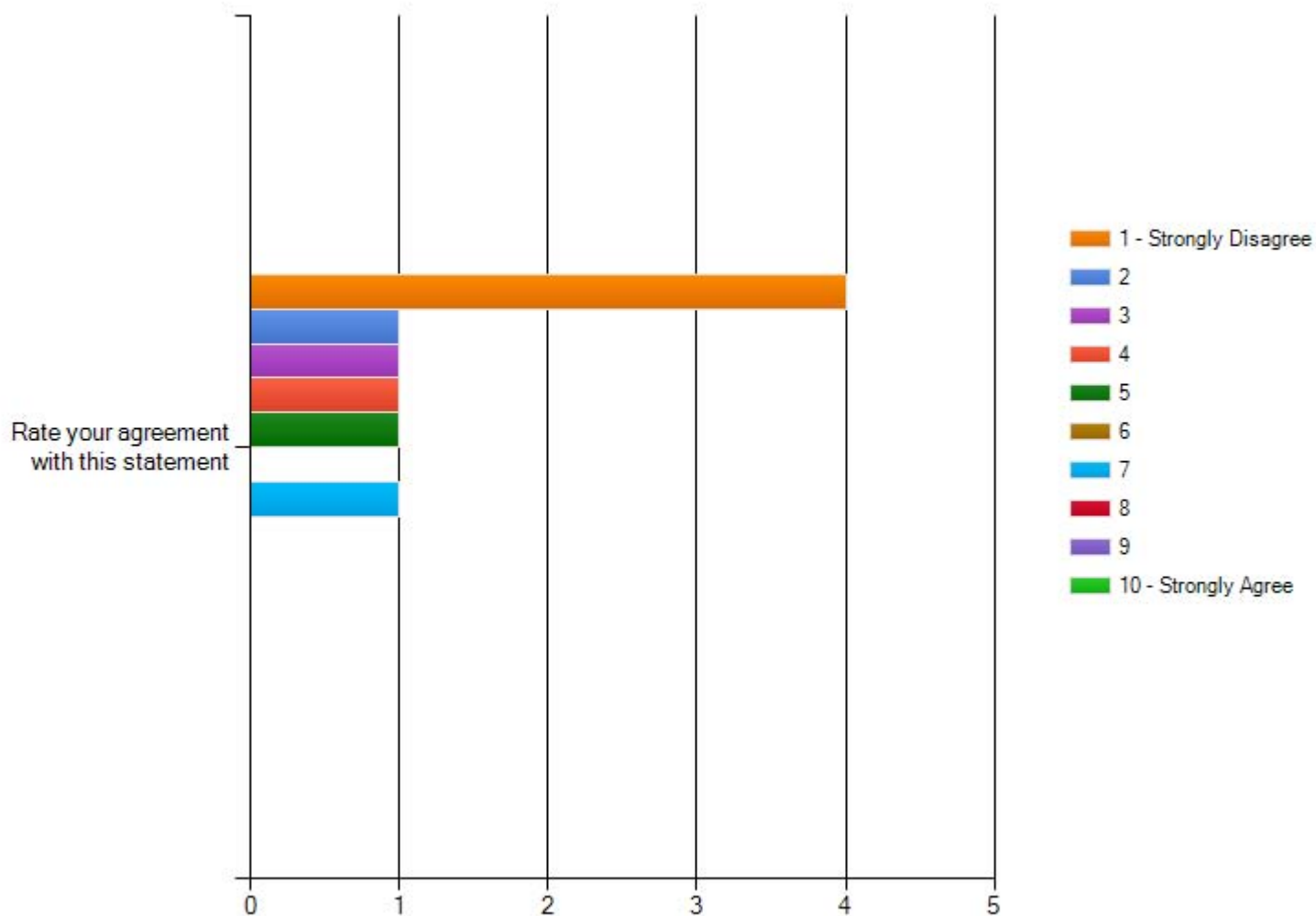
**The terms of our charter agreement are generally limited to what is required by the charter school law.**



**We have the flexibility to operate the school to best meet the needs of our students.**



**I understand the basis on which CSRP makes charter renewal decisions.**



# Appendix E

# Creating a Focus on Outcomes

Recommendations to the Charter School Governance,  
Accountability and Authority Task Force

September 21, 2011

Greg Richmond

President & CEO



# Hawaii Charter School Strengths & Weaknesses

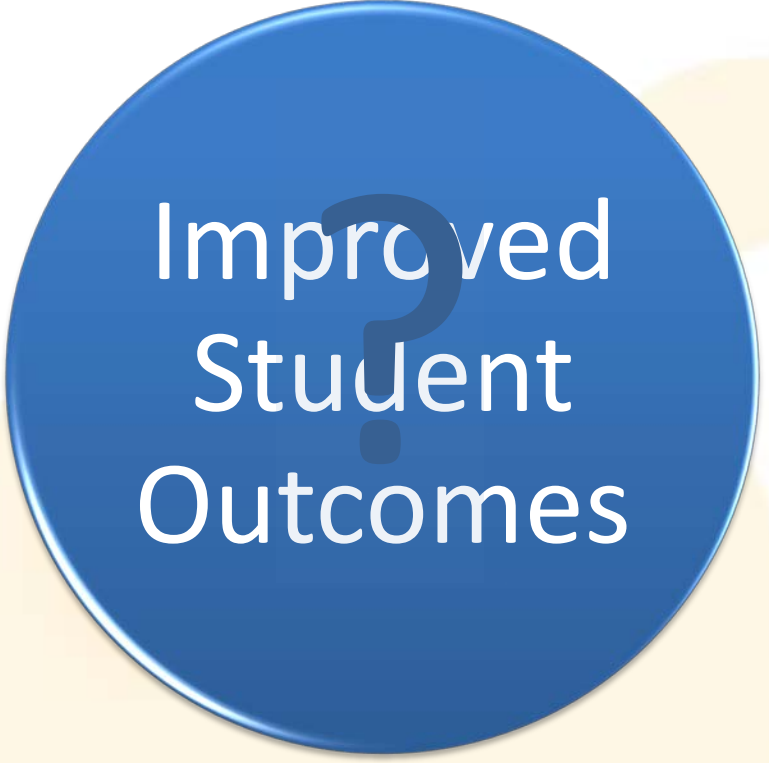
- Innovation
- Expanded educational choices
- Increased public engagement
- Unclear academic outcomes
- Cases of mismanagement
- Not driving improvement for all of public education

# The Charter Bargain



# Focus on Outcomes is Missing

- Outcomes not defined in applications
- Outcomes not monitored nor reported annually
- Outcomes not a meaningful component of renewal
- Outcomes not required by law



Improved  
Student  
Outcomes

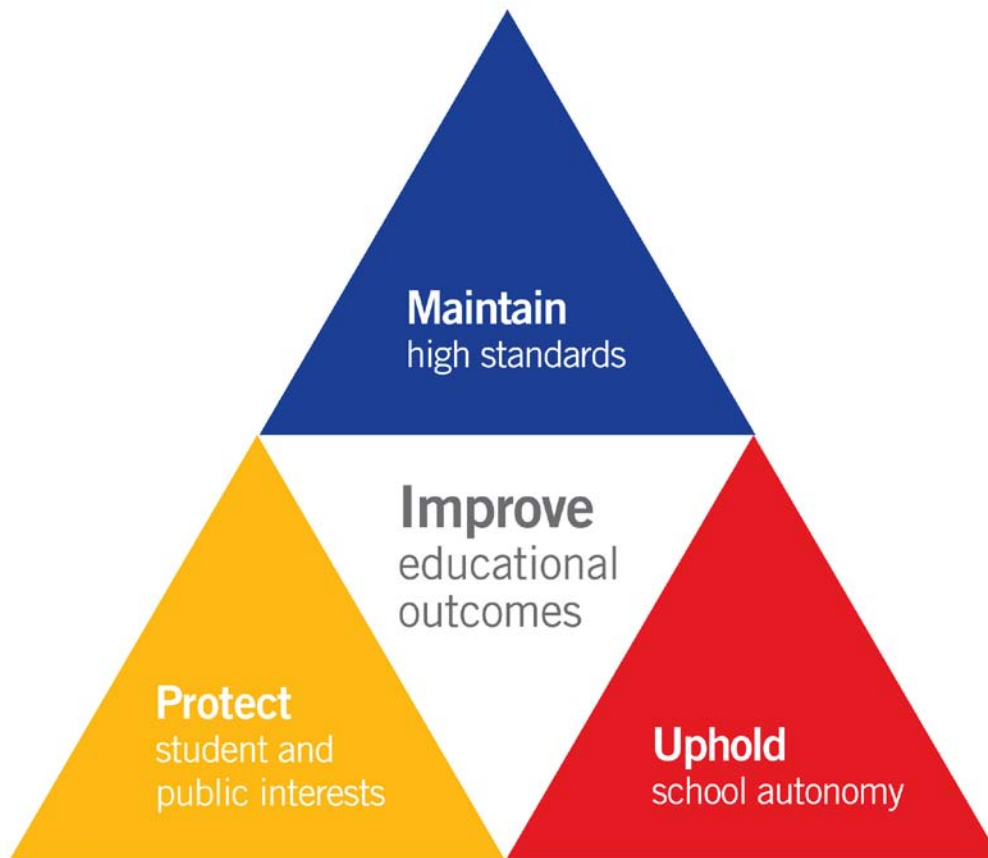


nacsa  
NATIONAL ASSOCIATION OF  
CHARTER SCHOOL AUTHORIZERS

# NACSA Recommendations

1. What should the roles, responsibilities and staffing of the CSRP and CSAO be?
2. Should Hawaii have multiple authorizers?
3. How should Hawaii hold authorizers accountable?
4. How can the CSRP and CSAO improve?
5. How can Hawaii strengthen charter school board governance?

# What is authorizing?



# 1. Roles and Responsibilities

CSAO should function as the staff to the CSRP, focusing on authorization more than administration

- Role of CSRP
  - Set policies
  - Make high-stakes decisions
- Role of CSAO
  - Recommend policies to CSRP
  - Apply/administer policies
  - Make high-stakes recommendations to CSRP

# Recommended CSAO Staffing

CSAO appears to have enough staff,  
but not the right staff roles

- Executive Director
- Applications
- Accountability
- Academic Performance
- Compliance
- Finance
- Administration
- Support

## 2. Multiple Authorizers

- Fix the current system before creating more
- Too many authorizers in a state can lead to a race to the bottom
- A good authorizer can and should accommodate schools with unique missions
- The weaknesses of Hawaii's current charter school system are a function of poorly-defined roles and responsibilities, not the number of schools authorized by the CSRP

# Path toward a 2<sup>nd</sup> authorizer

Dates	Actions
Now through December 2012	Implement new CSRP/CSAO roles
January – June 2012	Legislation to clarify and correct the roles and responsibilities of CSRP and CSAO and to establish an authorizer accountability system
January 2013 – April 2013	Evaluate function of CSRP/CSAO against national standards
April 2013 – June 2013	Legislature considers establishing a second authorizer based, in part, on evaluation of CSRP/CSAO
July 2013	Second authorizer is established with first set of new schools targeted for Fall 2014

# 3. Authorizer Accountability

- CSRP: Define universal, specific and measurable expected school outcomes
- CSRP: Annually report on school performance
- CSRP: Annually report on authorizer's *Index of Basic Practices* and conduct an evaluation every 3 – 5 years
- Legislature: Establish statutory *minimum* performance standards for schools up for renewal

## 4. CSRP Evaluation Highlights

- Establish clear, objective and measurable expectations for school performance
- Streamline<sup>A</sup> & strengthen application process
- Execute contracts<sup>B</sup> between CSRP & each school
- Evaluate schools – annually and at renewal – on outcomes, not inputs
- Delay reauthorization<sup>B</sup> actions until performance expectations are established
- Allow schools to decide if staff will be state employees<sup>A</sup>

A-Requires legislation    B-Legislation would be helpful

# 5. Charter school governance

A highly effective team, strategically assembled, to bring the skills, expertise, temperament and time to govern a multi-million dollar public enterprise.

- Skills, expertise and time
- Objectivity
- Selection, not election
- Governance, not management or representative democracy
- Focus on outcomes

# Creating a Focus on Outcomes

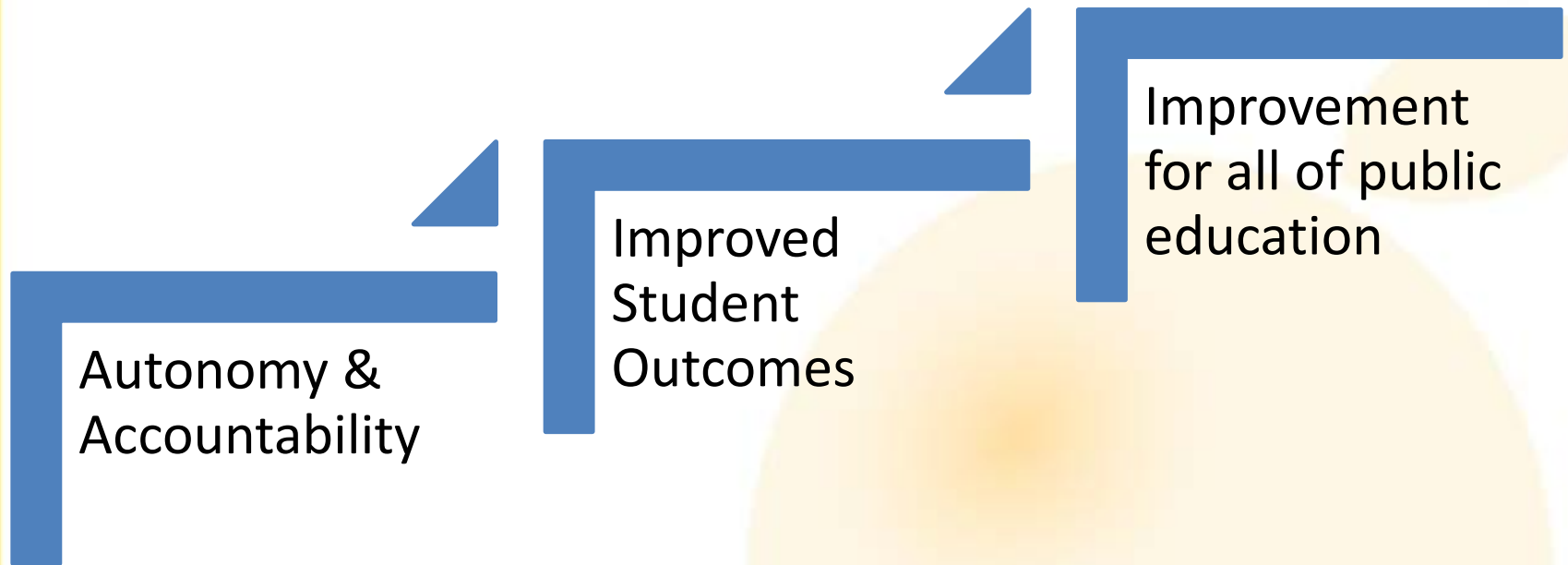
- Charter school applications
- Monitoring and annual reports
- Renewal decisions
- Local School Boards
- Charter school staff
- Outcomes required by law

Improved  
Student  
Outcomes



nacsa  
NATIONAL ASSOCIATION OF  
CHARTER SCHOOL AUTHORIZERS

# Driving Improvement for All





# Thank you

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



# Appendix F

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

July 20, 2011

Conference Room 225, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Representative Della Au Belatti, Hawaii House of Representatives  
Don Horner, Board of Education  
Robert Campbell, Department of Education (Superintendent of Education's Designee)  
Roger McKeague, Charter School Administrative Office  
Ruth Tschumy, Charter School Review Panel  
Lisa Okinaga, Kamehameha Schools  
Megan McCorriston, Ho'okako'o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Steve Sullivan, Hawaii Charter Schools Network

**II. Introduction of Members**

The members of the Charter School Governance, Accountability, and Authority Task Force (Task Force) were introduced. Tammy Chun, the Governor's representative, was excused from the meeting, and the office was represented by Wendy Clerinx, Governor's Policy Director.

**III. Overview of S.B. 1174, C.D. 1, Act 130, Session Laws of Hawaii 2011**

Senator Tokuda provided a brief overview of S.B. 1174, C.D. 1, Act 130, Session Laws of Hawaii 2011 (Act 130). Senator Tokuda stressed that the legislative intent when considering the Task Force was to consider national models and examples of best practices of other school districts, to look at what is working in Hawaii's Charter Schools, look at the challenges they face, and to apply any necessary changes to the Charter School system broadly and to ensure a strong governance structure and clear lines of accountability. Senator Tokuda stressed that the Task Force would not undertake an investigation of any individual charter school.

Senator Tokuda provided members of the Task Force with copies of a July 18, 2011, letter from Leslie Kondo, Executive Director of the State Ethics Commission (Commission). In his letter, Mr. Kondo expressed that the Commission would not be participating in the Task Force. As a result, the number of members on the Task Force was reduced from 12 to 11 members.

Senator Tokuda also informed the Task Force that the National Governors Association (NGA) and the National Association of Charter School Authorizers (NACSA) will be providing support to the Task Force, including technical support, assisting with meeting capabilities, and having individuals flying down to support the Task Force. NGA is particularly interested in the roles and responsibilities of the State Educational Agency and Local Educational Agency. In addition, NACSA will be advising the Charter School Review Panel under a grant proposal.

NACSA will also be advising the Task Force on other issues, including exploring the possibility of multiple authorizers and evaluating the form and function of any existing authorizer.

#### **IV. Presentation by the Charter School Administrative Office: Summary of Challenges and Opportunities Facing Hawaii's Charter Schools**

Roger McKeague, Executive Director of the Charter School Administrative Office (CSAO) provided a brief history and timeline of charter schools in Hawaii. Mr. McKeague expressed the staffing and economic challenges facing CSAO but also highlighted the many opportunities for Hawaii's Charter Schools through Race to the Top. Hawaii is the only state West of the Mississippi to receive funds through Race to the Top.

#### **V. Proposed Meeting Schedule, Objectives, and Plan of Action**

##### **A. Meeting Schedule**

A meeting schedule was provided to the Task Force Members. The Task Force will meet on the following Wednesdays from 10:00 a.m. – 12:00 p.m. at the State Capitol:

August 10, 2011, Room 225  
August 31, 2011, Room 225  
September 21, 2011, Room 016  
October 12, 2011, Room 225  
November 10, 2011, Room 225  
December 1, 2011, Room 225

##### **B. Proposed Objectives**

The proposed objectives of the Task Force are:

Objective #1: Develop legislation or administrative rules that clearly and definitively designate the governance structure and authority between and among key charter school organizations and the Department of Education, the Board of Education, and the Office of the Governor;

Objective #2: Identify how the governance structure connects and relates to the State Education Agency and Local Education Agency;

Objective #3: Identify oversight and monitoring responsibilities of the Charter School Review Panel, the Charter School Administrative Office, and the local school boards and develop a process for enforcement; and

Objective #4: Discuss funding-related issues, including but not limited to appropriate funding levels for the Charter School Administrative Office.

All other issues outside of the identified objectives or a request by a member to revisit a previously discussed objective will be placed in "The Bin". These items will be taken up at the October 12, 2011, meeting and to allow the Task Force to decide if additional meetings are necessary.

### **C. Proposed Plan of Action**

In order to address the specific objectives of Act 130, each meeting of the Task Force will be dedicated to one of the four objectives. At each Task Force meeting the goal will be for the Task Force to reach a general consensus on specific actions related to the objective discussed.

To help the Task Force, members will be split up into smaller working groups to discuss and investigate a specific objective prior to the convening of the next regular Task Force meeting. The working groups will identify:

- 1) What is working and should be kept?
- 2) What should be considered for repeal or elimination?
- 3) What should be changed?
- 4) What additional work must be done in this area?

As new business for each meeting, the Task Force will conclude the agenda with a discussion of the next objective, helping to provide the working group with some clarity and direction as to how they should formulate recommendations to the Task Force on the specific objective.

The working groups may allow third parties with expertise or knowledge in an objective area to participate in working group discussions. No decision making will be conducted by the working groups and the working groups will report back to the larger Task Force for further discussion.

### **D. Working Group #1**

Working Group #1 will include Ruth Tschumy, Gene Zarro, Robert Campbell, and Don Horner (tentative).

Working Group #1 will explore and discuss Objective #1 relating to the develop legislation or administrative rules that clearly and definitively designate the governance structure and authority between and among key charter school organizations and the Department of Education, the Board of Education, and the Office of the Governor.

Working Group #1 was also requested to:

- 1) Explore the feasibility of multiple authorizers;
- 2) Explore a different structure which would involve Charter Schools having their own Superintendent;
- 3) Discuss the role of the Detail Implementation Plan (DIP) as a contract;
- 4) Discuss alignment of the DIP with State law, e.g., Is the DIP the contract?
- 5) Provide a clear understanding of Hawaii Revised Statutes/Hawaii Administrative Rules and federal law → implementation vs. reality; and
- 6) Define the role of the Governor with the Charter Schools.

Working Group #1 will meet to investigate and discuss these items and report back to the Task Force at its next regular meeting.

**E. Meetings Covered by Capitol TV**

All of the Task Force meetings will be covered by Capitol TV. This will serve as the official record and will allow individuals to watch the Task Force meetings via the Senate's website.

**VI. Adjournment**

The meeting was adjourned. The next meeting is scheduled for August 10, 2011 at 10:00 a.m. in conference room 225.

# Appendix G

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

August 10, 2011

Conference Room 225, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Representative Della Au Belatti, Hawaii House of Representatives  
Tammi Chun, Office of the Governor  
Robert Campbell, Department of Education (Superintendent of Education's Designee)  
Roger McKeague, Charter School Administrative Office  
Ruth Tschumy, Charter School Review Panel  
Lisa Okinaga, Kamehameha Schools  
Megan McCorriston, Ho'okako'o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Steve Sullivan, Hawaii Charter Schools Network

**II. Remarks by Congresswoman Mazie Hirono**

Congresswoman Mazie Hirono thanked the Task Force members for their work. She reported that the issue of charter schools is a matter of interest at the federal level. Congresswoman Hirono mentioned that the House Committee on Education and Work Force recently reported out a bill that authorized \$300 million in grants to states to assist with issues of transparency, encouraging community and parental involvement, and facilities.

Congresswoman Hirono also reported on waivers for states from the more punitive aspects of No Child Left Behind. Congresswoman Hirono supports waivers and believes that Hawaii may receive waivers in light of the Race to the Top grant program.

**III. Adoption of Minutes**

Mr. McKeague moved that the minutes of the Charter School Governance, Accountability, and Authority Task Force (Task Force) be approved. Ms. Tschumy seconded the motion.

The Task Force unanimously adopted the motion and the minutes were adopted.

**IV. Report of Working Group #1**

Senator Tokuda thanked everyone for their continued hard work. She reported that Working Group #1 was tasked with examining Objective #1, which required the Task Force to:

*Develop legislation or administrative rules that clearly and definitively designate the governance structure and authority between and among key*

*charter school organizations and the Department of Education, the Board of Education, and the Office of the Governor;*

Senator Tokuda reported that Working Group #1 examined the following:

(A) Whether the current roles and lines of authority are clearly defined for the following entities: Charter School Review Panel (CSRP), Charter School Administrative Office (CSAO), Hawaii Charter School Network (HCSN), local school boards, Department of Education (DOE), Board of Education (BOE), and the Office of the Governor.

Working Group #1 determined that this is an area of ongoing discussion and clarity will be achieved through the continued work of the Task Force and others. One recommendation of the Working Group was to remove the existing organizational chart from the CSAO/CSRP website as it may cause confusion as to the various roles and duties.

(B) What is the role of the Detailed Implementation Plan (DIP) in both statute and in serving as an official contract between local schools boards and the CSRP?

In looking at clarifying the role/form/function of an authorizer (which includes the CSRP) and the establishment of a charter school contract and monitoring conditions, Working Group #1 evaluated sections 5 and 7 of the Charter School Model Law (Model Law).

Senator Tokuda presented the Working Group's questions and recommendations based on the Working Group's evaluation of sections 5 and 7 of the Model Law. The Task Force as a whole provided input, asked additional questions, and decided which sections of the Model Law should be incorporated into the Hawaii Revised Statutes (HRS). Detailed notes of the Task Force's discussion on this issue are attached hereto as Attachment "A".

(C) Whether the possibility of multiple authorizers should be considered?

Working Group #1 concluded that multiple authorizers should be allowed.

(D) Should consideration be given to a structure that involved Charter Schools having their own Superintendent?

Working Group #1 concluded that Charter Schools should not have their own Superintendent; however there is a need for Charter Schools to have a clear voice and a clear point of contact. There is a need to outline and understand who oversees certain functions and responsibilities within the system.

## **V. Working Group #2**

Working Group #2 was tasked with examining how the governance structure connects and relates to the State Education Agency and Local Education Agency. Specifically, Working Group #2 was asked to look at:

- (1) The need to delineate administrative functions;
- (2) How to better define the role/responsibilities of the SEA and LEA (establish accountability plan);
- (3) Whether it likes the per pupil funding aspect that currently exists;
- (4) The need to clarify what federal requirements come with federal funding and who is responsible for required data;
- (5) Special education considerations related to the SEA and LEA discussion;
- (6) Clarify the role/inclusion of charter schools when the State receives federal grants (e.g., Race to the Top);
- (7) A system of accountability and a mechanism for communication between the SEA and charter schools on funds;
- (8) The impact of waivers from No Child Left Behind and how to proceed;
- (9) A statutory definition/authority of the SEA and LEA and the relationship to schools;
- (10) Race to the Top Funding.

Working Group #2 will meet on Wednesday, August 17, 2011 at 1:00 p.m. at the Capitol in conference room 225.

## **VI. Adjournment**

The meeting was adjourned. The next Task Force meeting is scheduled for August 31, 2011 at 10:00 a.m. at the Capitol in conference room 225.

**SECTIONS V AND VII OF THE CHARTER SCHOOL MODEL LAW**  
**Proposed Additions to Hawaii Revised Statutes (HRS)**  
**Task Force Recommendations**

SECTION FIVE: AUTHORIZERS	COMMENTS
<p>(1) Eligible Authorizing Entities</p> <p>(a) The Charter School Review Panel (CSRP) may authorize public charter schools anywhere in the state, provided that the CSRP fulfills requirements of all public charter school authorizers under this Act.</p> <p>(b) Governing boards of accredited public or private postsecondary institutions, including community colleges, technical colleges, tribal colleges, and four-year colleges and universities, may apply to the BOE, pursuant to Section V, (4) of this Act, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.</p> <p>(c) A county or governmental agency may apply to the BOE, pursuant to Section V, (4) of this Act, for chartering authority within the county's or agency's jurisdiction.</p> <p>(d) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the BOE, pursuant to Section V, (4) of this Act, and may be granted statewide, regional, or local chartering authority. Nonpublic sectarian or religious organizations, and any other charitable organization which in their federal IRS Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer."</p>	<p>-In this section of the model law, it references a State Public Charter School Commission which has the authority to authorize charters statewide. This term has been replaced by the CSRP to make it applicable to Hawaii-some discussion was given to whether or not a name change would add clarity to the function/role of panel.  <b>CHANGE NAME TO HAWAII PUBLIC CHARTER SCHOOL COMMISSION</b></p> <p>-Reference throughout this section of the model law is also made to a State's Authorizer Oversight Body. The working group felt that for the time being, this role should be filled by the BOE. <b>OK FOR NOW, NEED TO DISCUSS MORE GOING FORWARD.</b></p> <p>-Question: If other governmental entities were allowed to be authorizers, would this impact how federal funds were handled &amp; received? Need to possibly address in terms of SEA/LEA jurisdiction &amp; responsibilities. <b>NOTE CONCERNS; INVESTIGATE FURTHER</b></p>

	-Question: Need to look at nonprofit LSB vs. nonprofit authorizer issue (per-capita funding question) <b>NOTE CONCERN; INVESTIGATE FURTHER</b>
<p>(2) State Public Charter School Commission (CSRP)</p> <p>(d) Members appointed to the CSRP shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, and curriculum and instruction, and public education law. All members of the CSRP shall have demonstrated understanding of and commitment to charter schooling as a strategy for strengthening public education.</p> <p>(e) (Include language to ensure that terms are always staggered going forward)</p> <p>(f) The CSRP shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of public charter school authorizing in accordance with this Act."</p>	<p>-This will be added to existing HRS to establish qualifications for CSRP members.</p> <p>-Question: Should we re-examine the makeup of the CSRP, and address the potential for conflicts of interest and overall duties of members? <b>WOULD LIKE TO LOOK AT CSRP MEMBERSHIP THAT IS LESS STAKEHOLDER ORIENTED &amp; BASED MORE ON (D). COULD BE SIMILAR TO BOE COMPOSITION.</b></p> <p>-Need to include language to ensure that all terms are staggered going forward to ensure continuity; avoid quorum issues. <b>WORKING GROUP #3</b></p> <p>-Question: Should CSAO be staff to the CSRP? <b>WORKING GROUP #4</b></p> <p><b>WORKING GROUP #3 ALSO TO LOOOK AT SELECTION/APPOINTMENT PROCESS. MAY WANT TO CONFER WITH NAPCSA.</b></p>
(4) Chartering Authority Application for Eligible Entities	

<p>(a) The BOE shall establish the annual application and approval process, including cycles and deadlines during the fiscal year, for all entities eligible to apply for chartering authority, as set forth in Section V, (1) of this Act. By [INSERT DATE] of each year, the BOE shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this Act. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:</p> <ul style="list-style-type: none"> <li>(i) Written notification of intent to serve as a charter authorizer in accordance with this Act;</li> <li>(ii) The applicant entity's strategic vision for chartering;</li> <li>(iii) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this Act;</li> <li>(iv) A draft or preliminary outline of the request for proposals that the applicant entity would, if approved as a charter authorizer, issue to solicit public charter school applicants, consistent with Section VI, (1) of this Act;</li> <li>(v) A draft of the performance framework that the applicant entity would, if approved as a charter authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this Act;</li> <li>(vi) A draft of the applicant entity's renewal, revocation, and non-renewal processes, consistent with Section VII, (3) of this Act;</li> <li>(vii) A statement of assurance that the applicant entity seeks to serve as a charter authorizer in fulfillment of the expectations, spirit, and intent of this Act, and that if approved as a charter authorizer, the entity will fully participate in any authorizer training provided or required by the state; and</li> <li>(viii) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning their charter-authorizing</li> </ul>	
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<p>practices, decisions, and expenditures.</p> <p>(b) By [INSERT DATE] of each year, the BOE shall decide whether to grant or deny chartering authority to each applicant. The BOE shall make its decisions on the merits of each applicant's proposal and plans.</p> <p>(c) Within [INSERT NUMBER OF DAYS] of the BOE's decision, the BOE shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this Act, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect."</p>	
<p>(5) Authorizer Powers, Duties, and Liabilities</p> <p>(a) Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:</p> <ul style="list-style-type: none"> <li>(i) Soliciting and evaluating charter applications;</li> <li>(ii) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;</li> <li>(iii) Declining to approve <b>weak</b> or inadequate charter applications;</li> <li>(iv) Negotiating and executing <b>sound</b> charter contracts with each approved public charter school;</li> <li>(v) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and</li> <li>(vi) Determining whether each charter contract merits renewal, nonrenewal, or revocation.</li> </ul> <p>(b) An authorizing entity may delegate its duties to offices, employees, and contractors.</p> <p>(c) Regulation by authorizers shall be limited to these powers and duties, and consistent with the spirit and intent of this Act.</p>	<p>-CONSIDER LANGUAGE CHANGE IN (5)a iii, iv. (WEAK, SOUND)</p>

<p>(d) An authorizing entity, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school they authorize."</p>	
<p>(6) Principles and Standards for Charter Authorizing</p> <p>(a) All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including: organizational capacity and infrastructure; soliciting and evaluating charter applications; performance contracting; ongoing public charter school oversight and evaluation; and charter renewal decision-making. Authorizers shall carry out all their duties under this Act in a manner consistent with such nationally recognized principles and standards and with the spirit and intent of this Act. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers."</p>	KEEP
<p>(7) Authorizer Reporting</p> <p>(a) Every authorizer shall be required to submit to the BOE and the LEGISLATURE an annual report summarizing:</p> <ul style="list-style-type: none"> <li>(i) The authorizer's strategic vision for chartering and progress toward achieving that vision;</li> <li>(ii) The academic and financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this Act;</li> <li>(iii) The status of the authorizer's public charter school portfolio,</li> </ul>	<p>-Question: Should we change the financial audit requirement to allow for reviews between audits if a school has an unqualified initial audit? (unqualified meaning no findings) Need to better understand what BOE/DOE needs to comply with federal requirements.</p> <p>- Add in (iii) pending application (define what this means). Consider whether or not schools need to be specifically names (Look at national models).</p>

<p>identifying all public charter schools in each of the following categories: <b>approved (but not yet open)</b>, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;</p> <p>(iv) The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with Generally Accepted Accounting Principles; and</p> <p>(v) <b>The services purchased from the authorizer by the public charter schools under its purview, including an itemized accounting of the actual costs of these services, as required in Section V, (11)."</b> <b>Concerns raised on this issue.</b></p>	<p>- Allow BOE to include additional reporting requirements</p>
<p>(9) Conflicts of Interest</p> <p>(a) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that entity."</p>	<p>Question: If we were to adopt this statement, how would that impact current makeup or potentially amended makeup of CSRP? <b>Have working group #3 look at this.</b></p>
<p>(10) Exclusivity of Authorizing Functions and Rights</p> <p>(a) No governmental or other entity, other than those expressly granted chartering authority as set forth in this Act, may assume any charter authorizing function or duty in any form, unless expressly allowed by law."</p>	<p><b>KEEP</b></p>
<p>(11) Services Purchased from Authorizer – Itemized Accounting</p> <p>(a) With the exception of oversight services as required by Section IV, (8), no public charter school shall be required to purchase services from its</p>	<p><b>KEEP</b></p>

<p>authorizer as a condition of charter approval or of executing a charter contract, nor may any such condition be implied.</p> <p>(b) A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school. An authorizer may not charge more than market rates for services provided to a public charter school.</p> <p>(c) Within [INSERT NUMBER OF DAYS] after the end of each fiscal year, each authorizer shall provide to each public charter school it oversees an itemized accounting of the actual costs of services purchased by the public charter school from the authorizer. Any difference between the amount initially charged to the public charter school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in such accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by BOE whose determination shall be final."</p>	
<p>(12) Oversight of Public Charter School Authorizers</p> <p>(a) The BOE shall be responsible for overseeing the performance and effectiveness of all authorizers established under this Act.</p> <p>(b) In accordance with Section V, (7), every authorizer shall be required to submit to the BOE and the LEGISLATURE an annual report. The BOE shall, by [INSERT DATE] of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.</p> <p>(c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the BOE. In reviewing or evaluating the performance of</p>	<p>-BOE needs to be involved in the drafting of this sub-section; would be responsible for establishing the framework, process and procedures for carrying out this sub-section.</p>

<p>authorizers BOE shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the BOE finds that an authorizer is not in compliance with an existing charter contract, its <del>authorizing contract</del> <b>charter application</b> with the BOE, or the requirements of all authorizers under this Act, the BOE shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.</p> <p>(d) If an authorizer granted chartering authority under Section V, (4) of this Act persists, after due notice from the BOE, in violating a material provision of a charter contract or its authorizing contract with the BOE, or fails to remedy other identified authorizing problems, the BOE shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.</p> <p>(f) In the event of revocation of any authorizer's chartering authority, the BOE shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term."</p>	
SECTION SEVEN: ACCOUNTABILITY	COMMENTS
<p>(1) Performance Framework</p> <p>(a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorizer's evaluations of each public charter school. The performance framework shall include indicators, measures and metrics for, at a minimum:</p> <ul style="list-style-type: none"> <li>(i) Student academic proficiency;</li> <li>(ii) Student academic growth;</li> </ul>	<p>-Need to replace Detailed Implementation Plan (DIP) with Charter Application in HRS.</p> <p>-Insert definition of charter contract (model law) into HRS.</p> <p>- Include verbage relating to secondary readiness (Roger to come up with)</p> <p>- Consider inclusion of student learner</p>

<p>(iii) Achievement gaps in both proficiency and growth between major student subgroups;</p> <p>(iv) Attendance;</p> <p>(v) Recurrent enrollment from year to year;</p> <p>(vi) Postsecondary readiness (for high schools);</p> <p>(vii) Financial performance and sustainability; and</p> <p>(viii) Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.</p> <p>(b) Annual performance targets shall be set by each public charter school in conjunction with its authorizer, and shall be designed to help each school meet applicable federal, state, and authorizer expectations.</p> <p>(c) The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance, provided that the authorizer approves the quality and rigor of such school-proposed indicators, and they are consistent with the purposes of this Act.</p> <p>(d) The performance framework shall require the disaggregation of all student performance data by major student subgroups (gender, race, poverty status, special education status, English Learner status, and gifted status).</p> <p>(e) For each public charter school it oversees, the authorizer shall be responsible for collecting, analyzing, and reporting all data from state assessments in accordance with the performance framework.</p> <p>(f) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual schools, and each school shall be held independently accountable for its performance."</p>	<p>outcomes (WASC)</p> <p>- Consider inclusion in appropriate areas the need/requirement to innovate and document; need to replicate best practices.</p> <p>- Look at teacher aspect</p> <p>- (e) discuss in working group #2</p>
<p>(2) Ongoing Oversight and Corrective Actions</p> <p>(a) An authorizer shall continually monitor the performance and legal</p>	<p>-Need to cross check if any existing HRS must be kept if this language replaces existing statute.</p> <p>CS/Advocates to go back and talk to</p>

<p>compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this Act, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to public charter schools.</p> <p>(b) Each authorizer shall annually publish and provide, as part of its annual report to the BOE and the LEGISLATURE, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and Section V, (7) of this Act. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.</p> <p>(c) In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation timeframes will apply.</p> <p>(d) Every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified timeframe."</p>	<p><b>schools and report back to TF</b></p> <p><b>- Concerns about burden on authorizer</b></p>
<p>(3) Renewals, Revocations, and Non-renewals</p> <p>(a) A charter may be renewed for than successive five-year terms of duration, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of each public charter school. An authorizer may grant renewal with specific conditions for necessary improvements to a public charter school.</p>	<p>-Question: HRS has renewal every 6 yrs to align with accreditation timeframes. Do we want to keep at 6 or go with 5 yr terms as proposed by the model law? <b>Make clear that no longer than a 6 year term.</b></p> <p><b>-CS/Advocates take back to schools for feedback</b></p>

<p>(b) No later than [INSERT DATE], the authorizer shall issue a public charter school performance report and charter renewal application guidance to any public charter school whose charter will expire the following year. The performance report shall summarize the public charter school's performance record to date, based on the data required by this Act and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the public charter school that may jeopardize its position in seeking renewal if not timely rectified. The public charter school shall have [INSERT NUMBER OF DAYS] to respond to the performance report and submit any corrections or clarifications for the report.</p> <p>(c) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:</p> <ul style="list-style-type: none"> <li>(i) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;</li> <li>(ii) Describe improvements undertaken or planned for the school; and</li> <li>(iii) Detail the school's plans for the next charter term.</li> </ul> <p>(d) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework set forth in the charter contract and consistent with this Act.</p> <p>(e) No later than [INSERT DATE], the governing board of a public charter school seeking renewal shall submit a renewal application to the charter authorizer pursuant to the renewal application guidance issued by the authorizer. The authorizer shall rule by resolution on the renewal application no later than [INSERT NUMBER OF DAYS] after the filing of the renewal application.</p> <p>(f) In making charter renewal decisions, every authorizer shall:</p> <ul style="list-style-type: none"> <li>(i) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;</li> </ul>	
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<p>(ii) Ensure that data used in making renewal decisions are available to the school and the public; and</p> <p>(iii) Provide a public report summarizing the evidence basis for each decision.</p> <p>(g) A charter contract may be revoked at any time or not renewed if the authorizer determines that the public charter school did any of the following or otherwise failed to comply with the provisions of this Act:</p> <p>(i) Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under this Act or the charter contract;</p> <p>(ii) Fails to meet or make sufficient progress toward the performance expectations set forth in the charter contract;</p> <p>(iii) Fails to meet generally accepted standards of fiscal management; or</p> <p>(iv) Substantially violates any material provision of law from which the public charter school was not exempted.</p> <p>(h) An authorizer must develop revocation and non-renewal processes that:</p> <p>(i) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure;</p> <p>(ii) Allow the charter holders a reasonable amount of time in which to prepare a response;</p> <p>(iii) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;</p> <p>(iv) Allow the charter holders access to representation by counsel and to call witnesses on their behalf;</p> <p>(v) Permit the recording of such proceedings; and</p> <p>(vi) After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter holders.</p>	
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<p>(i) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state, in a resolution of its governing board, the reasons for the revocation or nonrenewal.</p> <p>(j) Within [INSERT NUMBER OF DAYS] of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the BOE the action taken, and shall provide a copy of the report to the public charter school at the same time that the report is submitted to the BOE. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this Act."</p>	
<p>(4) School Closure and Dissolution</p> <p>(a) Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this Act. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.</p> <p>(b) In the event of a public charter school closure for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the state treasury to the credit of the general revenue fund. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law."</p>	<p>-Ruth to review existing CSRP procedures and determine if any additional language should be added to mitigate potential problems for future authorizers. (Look at language to reference CSRP language)</p> <p>-In subsection (b), include appropriate language to make clear that any facilities would revert back to the state, with first rights of refusal going to a charter school, then the Department of Education.</p> <p>- Consider language change for (b) that denotes publically funded facilities.</p> <p>- CS/Advocates to take back to schools for feedback</p>
<p>(5) Charter Transfers</p>	<p>KEEP</p>

<p>(a) Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the BOE by a public charter school or its authorizer. The BOE shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students."</p>	
<p>(6) Annual Report</p> <p>(a) On or before [INSERT DATE] of each year beginning in the first year after the state will have had public charter schools operating for a full school year, the <b>BOE shall issue to the governor, the LEGISLATURE</b>, and the public at large, 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 BOE, for the school year ending in the preceding calendar year. The annual report shall include a comparison of the performance of public charter school students with the performance of academically, ethnically, and economically comparable groups of students in non-charter public schools. In addition, the annual report shall include the BOE's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this Act, including the BOE's assessment of the sufficiency of funding for public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's public charter schools."</p>	<p>Discuss with BOE. Concern with BOE staffing; Role of BOE. Consider a biennium report?</p>
<p><b>SECTION THREE: DEFINITIONS</b></p>	<p><b>COMMENTS</b></p>

<p>(5) "Authorizer" is an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts.</p> <p>"Charter Contract" means a fixed-term, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.</p>	<p>-Amending definition of Detailed Implementation Plan (DIP) in HRS to read: "Charter application" means the document that details the charter school's purpose, focus, operations, organization, finances, and accountability.</p> <p>-Need to review all definitions to align with amendments being made. All references to the DIP in HRS need to be adjusted.</p> <p>- Would AG need to review and sign off on every charter contract?</p>
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# Appendix H

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

August 31, 2011

Conference Room 225, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Representative Della Au Belatti, Hawaii House of Representatives  
Don Horner, Board of Education  
Tammi Chun, Office of the Governor  
Robert Campbell, Department of Education (Superintendent of Education's Designee)  
Roger McKeague, Charter School Administrative Office  
Ruth Tschumy, Charter School Review Panel  
Lisa Okinaga, Kamehameha Schools  
Megan McCorriston, Ho'okako'o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Steve Sullivan, Hawaii Charter Schools Network

**II. Adoption of Minutes**

Mr. McKeague moved that the minutes of the August 10, 2011 Charter School Governance, Accountability, and Authority Task Force (Task Force) be approved. Mr. Zarro seconded the motion.

The Task Force unanimously adopted the motion and the minutes were adopted.

**III. Remarks by the National Association of Charter School Authorizers (NACSA)**

Representatives from NACSA attended the last Working Group meeting. NACSA reported that they are here to conduct a review of the Charter School Review Panel, among other aspects of Hawaii's Charter School System, and will be sharing their recommendations with the Task Force in September.

**IV. Report of Working Group #2**

Senator Tokuda presented the report from Working Group #2 which focused on identifying how the charter school governance structure connects and relates to the state education agency. Specifically, Working Group #2 focused on three overarching themes:

- (1) Need for transparency and access to discretionary funds when it comes to federal dollars;
- (2) Need for elevated status for charter schools when it comes to federal grant applications and propels; consultation requirements for both the applications and in the development of accountability work plans; and
- (3) Access to federal grant opportunities limited in having only on LEA.

Working Group #2 recommended that a Charter School Local Educational Agency be established in statute for the purpose of handling federal funding disbursements. The Working Group #2 Report which further highlights the Task Force's discussion on this issue is attached hereto.

Mr. Campbell provided a comparison between the roles and responsibilities of a Local Education Agency and State Education Agency for various federal title fund moneys and IDEA funds. The comparison is attached as Attachment "A" to the Working Group #2 Report.

Working Group #2 also provided some draft language for Chapter 302B, Hawaii Revised Statutes, to define the "Charter School Local Education Agency" and to provide some guidance on roles and responsibilities with regard to special education services and the exemption from certain state laws. Detailed notes of the Task Force's discussion on this issue are attached as Attachment "B" to the Working Group #2 Report.

The suggestion to establish a designated complex area and complex area superintendent was raised and the Task Force discussed the possibility of creating either:

- (1) A Charter School Local Educational Agency;
- (2) A Charter School Complex Area Superintendent; or
- (3) A hybrid of (1) and (2).

The Task Force discussed the opportunities, responsibilities, and liabilities of each of the three options and determined that further evaluation was required. The Task Force recommended that Working Group #2 and #3 meet together to discuss both objectives and to consider the LEA or CAS models as weighed against the three overarching themes identified.

## **V. Working Groups #2 and #3**

Working Groups #2 and #3 will meet on September 7, 2011 at 1:00 p.m. in Room 225 to continue the discussions relating to a Charter School LEA, Charter School CAS; or hybrid. Working Group #3 will focus on identifying the oversight and monitoring responsibilities of the Charter School Review Panel, the Charter School Administrative Office, and the local school boards and develop a process for enforcement.

## **VI. Adjournment**

The meeting was adjourned. The next Task Force meeting is scheduled for September 21, 2011 at 9:00 a.m. at the Capitol in conference room 211.

## SEA/LEA Comparison

<i><b>Title</b></i>	<i><b>SEA</b></i>	<i><b>LEA</b></i>	<i><b>School</b></i>
<b>Title I</b>	<p><b>Part A</b>  <b>State Plans</b> (Sect 1111)            -Consultation Plan            -Accountability Framework (Standards, Assessments, Accountability)            -Technical Assistance to LEA            -Dissemination of effective parental involvement strategies            -Annual state report card            -Approve LEA plans            -Allocations to LEA (or PCS under certain circumstances)            -Determine LEA Maintenance of Effort (MOE) 1% for SEA – up to 4% for School Improvement</p> <p><b>Part D</b>            Allocations to state agencies that are providing education in institutions, day programs for neglected, adult corrections. provide USDOE state-wide data            Participate in Monitoring and Single Audits</p>	<p><b>Local Plan</b> (Sect 1112)            -Determine Comparability            -additional Assessments (if any)            -description of how the Title I program will be implemented and coordinated and integrated with other programs.            -work in consultation with schools to implement targeted assistance and school wide programs            -comply with HQT requirements            -review of school plans and improvement plans            Allocations to schools per LEA plan</p> <p>Local plan (Sect 1423)            Provide to the SEA the LEA USDOE required data</p>	<p>-School improvement plan</p> <p>-Use of funds according to school improvement plan, EDGAR, and regulations</p> <p>-Participation in SEA accountability system</p>
<b>Title II, Part A</b>	5% for State Administration – 95% to LEA(s) State HQT and Equity Plan which includes listing of Core Subject classes and HQT criteria Monitoring for use of funds and improvement	<p>LEA Equity Plan</p> <p>LEA funds used according to LEA plan            Submittal of required data            Monitoring for use of funds and school by school improvement</p>	<p>May or may not have funds</p> <p>Must report HQT numbers based on criteria in SEA plan</p>

<i>Title</i>	<i>SEA</i>	<i>LEA</i>	<i>School</i>
<b>Title II, Part D</b>	SEA Strategic Technology Plan (2413) 5% for SEA activities Of the remaining amount, 50% to eligible LEAs based on Title I allocation, and 50% to LEAs on competitive basis. Monitoring Submittal of required data (CSPR and EDFACTS)	LEA Application with Strategic Tech Plan (2414) Monitoring for use of funds Submittal of required data	If schools get funds then they must - use funds appropriately - provide required data
<b>Title III</b>	SEA Plan (Sect 3113) 5% (\$175K) for SEA activities 95% to LEAs  Monitoring and hold accountable Provide data to USDOE (CSPR and EDFACTS)	LEA (eligible entity) Plan  Monitor and hold schools accountable  Provide data to SEA Parent notification of results	Proper use of funds (no supplanting) and participation in SEA accountability plan Parent notification of program NOTE: It is a civil rights obligation for schools to identify and provide English language instruction for those students who require it.
<b>IDEA</b>	SEA Plan to ensure FAPE to eligible students MOE \$800K plus inflation for SEA (monitoring, enforcement, complaints monitoring) State Advisory Panel General Supervision of LEAs Reporting data to USDOE	LEA plan assuring FAPE will be provided to eligible students  MOE  Child find activities	Provide FAPE

## CHARTER SCHOOL LOCAL EDUCATION AGENCY BILL FOR WORKING GROUP #2

CHARTER SCHOOL LOCAL EDUCATION AGENCY	NOTES
<p>SECTION 1. Chapter 302B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:</p> <p><b><u>§302B- Charter school local educational agency; role.</u></b></p> <p><u>(a) When used in this chapter, "charter school local educational agency" means the public authority within the State with administrative control over federal funding disbursements to charter schools.</u></p> <p><u>(b) The charter school local educational agency shall represent the charter schools in the role of a local educational agency in interacting with the department as the state educational agency. For purposes of this subsection:</u></p> <p><u>(1) "Local educational agency" shall have the same meaning as in Title 34 Code of Federal Regulations section 300.28; and</u></p> <p><u>(2) "State educational agency" shall have the same meaning as in Title 34 Code of Federal Regulations section 300.42.</u></p>	
<p>SECTION 2. Section 302B-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:</p> <p><u>(b) Charter schools, the local educational agency, and the office shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Charter schools and the office are encouraged to use the provisions of chapter 103D where possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school or the office to any other provision of chapter 103D. Charter schools, the local educational agency, and the office shall account for funds expended for the procurement of goods and services, and this accounting shall be available to the public."</u></p>	
<p>SECTION 3. Section 302B-12, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:</p>	

CHARTER SCHOOL LOCAL EDUCATION AGENCY	NOTES
<p>(c) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. <del>[The department shall provide the office with all state-level federal grant proposals submitted by the department that include charter schools as potential recipients and timely reports on state-level federal grants received for which charter schools may apply or are entitled to receive.]</del> <u>The department shall consult with the charter school local educational agency in all state-level federal grant applications and proposals submitted by the department and in the distribution of all Individual with Disabilities Education Act and federal title funds.</u> <u>The charter school local educational agency shall be responsible for data collection and ensuring compliance with all federal reporting requirements.</u> Federal funds received by the department for charter schools shall be transferred to the <del>[office]</del> <u>charter school local educational agency</u> for distribution to charter schools in accordance with the federal requirements. If administrative services related to federal grants and subsidies are provided to the charter school by the department, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six and one-half per cent of the charter school's federal grants and subsidies.</p> <p>Any charter school shall be eligible to receive any supplemental federal grant or award for which any other public school may submit a proposal, or any supplemental federal grants limited to charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to these supplemental grants, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six and one-half per cent of the supplemental grant for which the services are used.</p> <p>All additional funds generated by the local school boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the local school boards."</p>	

CHARTER SCHOOL LOCAL EDUCATION AGENCY	NOTES
<p>SECTION 4. Section 302B-15, Hawaii Revised Statutes, is amended to read as follows:</p> <p><b>"§302B-15 Responsibilities of department of education; special education services.</b></p> <p>(a) The department shall collaborate with the [office] <u>charter school local educational agency</u> to develop a system of technical assistance related to compliance with federal and state laws and access to federal and state funds. The department and the [office] <u>charter school local educational agency</u> shall collaborate to develop a list of central services that the department may offer for purchase by a charter school at an annual cost to be negotiated between an individual charter school and the department. The department shall enter into a contract with a charter school to provide these services, which shall be renegotiated on an annual basis.</p> <p>(b) The department shall be responsible for the provision of a free appropriate public education. Any charter school that enrolls special education students or identifies one of its students as eligible for special education shall be responsible for providing the educational and related services required by a student's individualized education program. The programs and services for the student shall be determined collaboratively by the student's individualized education program team and the student's parents or legal guardians.</p> <p>If the charter school is unable to provide all of the required services, then services to the student shall be provided by the department according to services determined by the student's individualized educational program team. The department shall collaborate with the [office] <u>charter school local educational agency</u> to develop guidelines related to the provision of special education services and resources to each charter school. The department shall review all of the current individualized education programs of special education students enrolled in a charter school and may offer staff, funding, or both, to the charter school based upon a per-pupil weighted formula implemented by the department and used to allocate resources for special education students in the public schools.</p>	<p>302B-Definition section, be clear that Department means SEA.</p> <p>Instead of SPED positions, institute policy of schools receiving cash for said positions.</p> <p>"The state shall pay directly to a public charter school any federal and state aid attributable to a student with a disability attending the school." Bob's homework.</p> <p>"The <del>state</del> department shall pay directly to a public charter school any federal and state <del>aid</del> funds attributable to a student with a disability attending the school."</p> <p>Bob's explanations:</p> <p>1) used "department" and "funds" to be consistent with the rest of 302B-15.</p> <p>2) Practically speaking, the Department will need to devise a way of determining the cost of related services so that a 'buy back" MOA can be negotiated in order to allow for those department staff delivered related services (OT, PT, speech, etc) to continue to be made available. It would be very helpful if the MOA were something the "office" did rather than 32 different schools.</p>

# Appendix I

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

September 21, 2011

Conference Room 211, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Representative Della Au Belatti, Hawaii House of Representatives  
Liann Ebesugawa on behalf of Don Horner, Board of Education  
Tammi Chun, Office of the Governor  
Robert Campbell, Department of Education (Superintendent of Education's Designee)  
Roger McKeague, Charter School Administrative Office  
Ruth Tschumy, Charter School Review Panel  
Kalei Kailihiwa on behalf of Lisa Okinaga, Kamehameha Schools  
Megan McCorriston, Ho'okako'o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Steve Sullivan, Hawaii Charter Schools Network

**II. Remarks by the National Association of Charter School Authorizers (NACSA)**

NACSA was requested by the Charter School Review Panel (CSRP) to conduct a review of CSRP's policies and procedures as the State's charter school authorizer. In addition, NACSA agreed to assist the Task Force with its goals and objectives.

Greg Richmond, of NACSA presented the organization's findings and recommendations. He will provide a more in depth report to the CSRP on September 22, 2011.

NACSA examined the Hawaii charter system's strength and weakness. NACSA identified Hawaii's number one strength to be the autonomous nature of the system. NACSA went on to report that it believes the number one weakness of Hawaii's charter school system is its failure to focus on improving student outcomes. Specifically, NACSA cited that outcomes are not defined in charter school applications, are not monitored or reported on annually, are not a meaningful component of charter renewal, and are not required by law.

NACSA also made the following recommendations to the Task Force:

Recommendation #1 (Roles and Responsibilities): The Charter School Administration Office (CSAO) should function as the staff to the CSRP, focusing on authorization more than administration.

Recommendation #2 (Multiple Authorizers): NACSA reported that one weakness in current system is a function of poorly defined roles and responsibilities and not the number of charter school authorizers. NACSA recommended that the State first work to improve its current system before allowing for multiple authorizers. The NACSA report contains a timeline for phasing in multiple authorizers.

Recommendation #3 (Authorizer Accountability): NACSA recommended that CSRP do the following to ensure accountability:

- (1) Define universal, specific and measureable expected school outcomes;
- (2) Annually report on school performance;
- (3) Annually report on authorizer's "Index of Basic Practices"; and
- (4) Allow a third party to conduct an evaluation every 3 to 5 years.

NACSA also recommended that the Legislature establish statutory minimum standards for schools that are up for charter renewal.

Recommendation #4 (CSRP Evaluation): NACSA recommended that the State:

- (1) Establish clear, objective and measureable expectations for school performance;
- (2) Streamline (through legislation) and strengthen the charter school application process;
- (3) Execute contracts between CSRP and each charter school;
- (4) Evaluate schools annually and at renewal on outcomes rather than inputs;
- (5) Delay reauthorization actions until performance expectations are established; and
- (6) Allow schools to decide if staff will be state employees.

Recommendation #5 (Charter School Governance): NACSA recommended that a local school board for a charter school must be a highly effective team, strategically assembled, to bring the skills, expertise, temperament and time to govern charter schools. The composition of the local school board should be based on members' skills, expertise, and time, as well as their objectivity. Members should be selected and not elected. In addition the purpose of the local school board is governance and not management or maintaining a representative democracy. Lastly, the local school board should be focusing on student outcomes.

A copy of NACSA's power point presentation and report to the Task Force is available on the Task Force's website.<sup>1</sup>

A representative from the National Governors Association (NGA) was also present to answer questions and provide further guidance to the Task Force.

### **III. Adoption of Minutes**

Mr. Zarro moved that the minutes of the September 9, 2011 Task Force be approved. Ms. Tschumy seconded the motion.

The Task Force unanimously adopted the motion and the minutes were adopted.

### **IV. Follow up Discussion on Working Group #2 Recommendations**

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<sup>1</sup> <http://www.capitol.hawaii.gov/session2011/studies/commCSGTF.asp>

Senator Tokuda provided a recap of the discussions held by Working Group #2 relating to the establishment of a separate local educational agency (LEA) for Charter Schools. Senator Tokuda confirmed that if Hawaii chooses to have more than one LEA, which is the current set up within the State, Hawaii would lose between \$20 million to \$23 million in federal military impact aid. Given that this information was only discovered recently, the Working Group tasked Senator Tokuda with developing a draft "Plan B" as an alternative to establishing a separate LEA for charter schools. A copy of Working Group #2's Plan B, as well as Working Group #2/3's notes are attached hereto.

The draft "Plan B" establishes a Charter School Support Office ("CSSO") within the Office of the Superintendent which shall be responsible for the overall administration of statewide educational policy and development of compliance with state and federal laws as they relate to charter schools. The Director of the CSSO is to serve as the liaison within the Department of Education ("DOE") for the purpose of coordinating charter school involvement and/or required participation in any SEA or LEA applications and proposals for federal grant aids.

Staffing resources currently in the CSAO may be redistributed to the CSRP as authorizer staff and to the new CSSO.

The Task Force discussed various pros and cons associated with Plan B. Ultimately the Task Force agreed that it would continue to work on further refining and fleshing out the roles and responsibilities of the CSSO and CSRP staff in order to ensure that the goals and objectives of the Task Force were met.

**V. Report of Working Group #3: Identify oversight and monitoring responsibilities of the Charter School Review Panel, Charter School Administrative Office, and the local school boards, and develop a process for enforcement**

Working Group #3 was tasked with identifying oversight and monitoring responsibilities of the Charter School Review Panel, Charter School Administrative Office, and the local school boards and to develop a process for enforcement. Working Group #2/3's notes are attached hereto.

Working Group #3 acknowledged that it would first be helpful to see NACSA and NGA's recommendations. In addition, there was extensive discussion on local school boards ("LSBs") and the need to change the constituency-based memberships of LSBs to encompass more generalized qualifications. Training for LSBs was also discussed, as well as a need to clearly delineate the relationship between an authorizer and an LSB. Working Group #3 also discussed how to keep LSBs autonomous while keeping them accountable for student achievement.

**VI. Discussion on Objective #4: Discuss funding-related issues, including but not limited to appropriate funding levels for the Charter School Administrative Office.**

Senator Tokuda recommended that the next working group meeting will be held to

continue the discussions on the draft of Plan B, as well as to continue discussing the oversight responsibilities of charter school stakeholders. If time allows, the working group may discuss issues related to funding.

The working group meeting will be held on Thursday, September 29, 2011 in room 211.

## **VII. Adjournment**

The meeting was adjourned. The next Task Force meeting is scheduled for October 12, 2011 at 10:00 a.m. at the Capitol in conference room 225.

**Charter School Governance, Accountability & Authority Task Force**  
**Working Groups 2/3**  
**September 21, 2011**

*Objective #2: Identify how the governance structure connects and relates to the State Education Agency (SEA) and Local Education Agency (LEA).*

Follow Up as Determined By Task Force:

- Discussion and comparison of governance models to include a Charter School LEA, a Charter School Complex Area, and a hybrid Complex Area/LEA.
- Evaluate each of the possible models on the basis of potential opportunities, responsibilities and liabilities; and as it relates to the three overarching themes identified in earlier working group discussions.

**Working Group #2 Notes**

**Overarching Themes and the CAS/LEA discussion (R. Campbell)**

**1) Need for transparency and access to discretionary and formula driven federal funds.**

**PCS LEA**

The PCS LEA structure would make transparent the amount of federal funds, by program or grant, held at the SEA level. The allocation of funds from the SEA to all LEAs (including a PCS LEA) is either set by regulation or must be done in consultation with the LEAs.

In the case of formula driven federal funds the amount is set by regulation.

In the case of discretionary funds the funds go directly to SEA for specific things in the grant application. There are no deviations. The grant application can be made public.

Each LEA then distributes funds to schools based on a plan submitted to the SEA. Thus the rationale leading to any particular school's funding level is public.

In the case of discretionary funds the funds go directly to LEA for specific things in the grant application. There are no deviations. The grant application can be made public.

**PCS CAS**

The determination regarding the use of formula funds is made at the federal program manager level in consultation with the Assistant Superintendent. The determination regarding the distribution of the LEA funds is shared with the CAS. In some cases, Title

II, Part A most notable, there was discussion regarding various options for distributing the funds. The most likely scenario though is that the CAS is informed of the distribution methodology.

In the case of discretionary funds, the CAS is informed of the award of the grant and complex or school ramifications.

### **Conclusion**

Clearly defining the use of either structure would improve the transparency of and access to federal funds that are currently available.

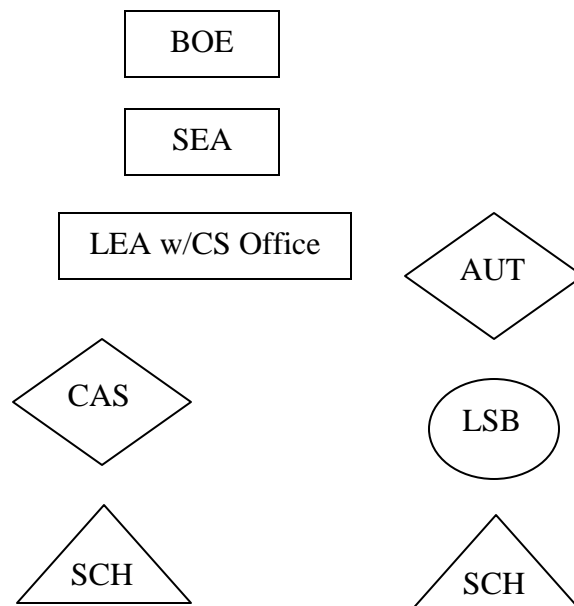
### **Working Group #2 Conclusions**

While the initial conclusion of the working group was to continue to support and further delineate governance authorities under a Charter School LEA model, information was presented to the group that required a change in direction.

It has been brought to our attention that provisions within the federal impact aid regulations grant additional financial benefits to single LEA states like Hawaii. The estimated loss in impact aid funds should Hawaii become a multiple LEA state ranges between \$21-23 million annually. A loss of this magnitude would have a financial impact on ALL public schools.

Understanding the difficult fiscal realities this would pose, the group agreed to consider an LEA-like model that would best seek to address the 3 overarching themes identified without creating a unique LEA for charter schools.

#### *Initial Model Considered By the Group:*



For the purposes of presenting a working model to the task force, the group agreed to allow the Co-Chair to confer with Superintendent Matayoshi and other knowledgeable parties including NACSA and NGA in putting together a possible structure.

*See attached diagram & explanation: Attachment A*

### **Working Group #3 Notes**

The working group examined the functions, oversight and monitoring responsibilities, and current statutory authority for the following entities: CSRP (authorizer), CSAO, LEA, LSB, SEA & BOE.

*See attached table for analysis: Attachment B*

### **Working Group #3 Conclusions**

While the working group did clarify specific oversight and monitoring responsibilities for the CSRP & CSAO, there was a strong acknowledgement that we would like to see the recommendations being made by NACSA and seek input from NGA on this area.

There was extensive discussion on the area of Local School Boards (LSB) and a desire to change the constituency-based makeup of the LSB to encompass more generalized desired qualifications. There was also a strong desire to consider training requirements for LSB members, and a need to be clearly delineate relationship between an authorizer and the LSB, whether it be for federal compliance purposes or as it relates to their charter contract. Need to ensure that this would not be contradicted by “autonomous” language referenced in 302B-7.

### **2) Need for elevated status for charter schools when it comes to federal grant applications and proposals or decisions regarding the use of federal funds.**

#### **PCS LEA**

The SEA is required to consult with LEAs. Evidence of consultation is generally one of those things that the USDOE looks for when monitoring programs.

NOTE: It is only consultation and the LEAs do not have decision making authority.

Any LEA choosing to participate in an SEA discretionary grant would have that decision making authority.

#### **CAS LEA**

Historically there has been little or no CAS input and complex area superintendent or school level agreement is not a requirement for either the SEA or LEA.

## **Conclusion**

The LEA status would provide a cleaner structure for charter school participation in decision making related to formula and discretionary grants.

### **3) Access to federal grant opportunities limited in having only 1 LEA.**

I am not aware of any grants as were described. However, at the moment any grant in which an LEA is eligible to apply must go through the Department. To the extent that the Department has capacity, the grant may or may not be a priority.

## **Other thoughts:**

### **PCS LEA**

#### Responsibilities

It would require

- Agreement from PCSs on the level of representation and participation.
- Commitment of an individual to be available and knowledgeable regarding related PCS activities (i.e., what are the PCSs doing now? A CAS is expected to know the answer.)
- The Department would need to create a more formal structure for the planning and use of federal funds.

#### Liabilities

This would change the relationship of PCSs within the HDOE.

It would require an identified entity to serve as the conduit of information and resources from HDOE to the PCS and reporting data from the PCS to HDOE.

#### Possible misperceptions

There seems to be a perception that there is a need for a vast amount of resources needed to meet LEA responsibilities. I believe it is likely based on the fact that the only immediate reference is the HDOE in which current staffing addresses both SEA and LEA responsibilities in a particular manner.

There are single school districts on the mainland that will meet LEA responsibilities. The amount of resources needed by an LEA entity is dependent upon a number of things which include: (a) the degree to which they chose to operate differently than other LEAs, (b) the extent to which they do not rely on SEA technical assistance, or (c) the degree to which they chose to operate independent from other LEAs.

### **PCS CAS**

#### Responsibilities

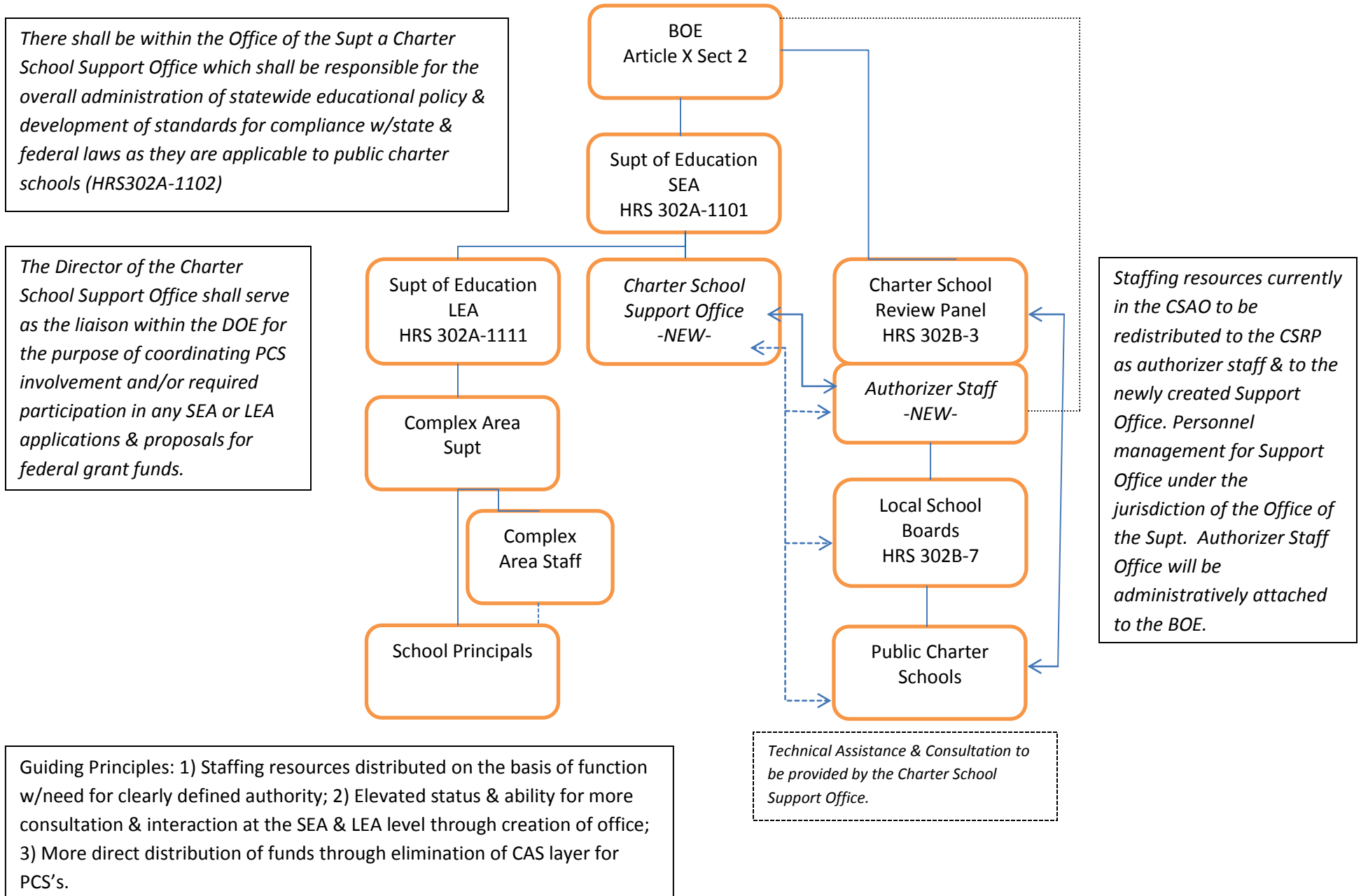
It would require

- Agreement from PCSs on the level of representation and participation
- Commitment of an individual to be available and knowledgeable regarding related PCS activities (i.e., what are the PCSs doing now? A CAS is expected to know the answer.)
- The Department would need to change the way in which topics for Leadership Team meetings are held and the agenda generation as these meetings are a combination of internal messaging, leadership development, and DOE operational decisions.

#### Possible Misperceptions

I get the feeling that non-attendees at Leadership Team meetings think that it is a problem-solving, solution-generating, and decision-making forum whereby the 22 HDOE leaders jointly discuss issues and make decisions regarding federal programs. That is not the case. With the possible exception of Title II, Part A funds this group is merely told by OCISS Program Manager of the decisions that have been made regarding the funds. This is consistent with federal regs as the CAS is the head of an administrative subunit and the regs only address required collaboration with external groups.

## Working Group #2 Plan B - DRAFT 1



## Working Group #3

Looking at oversight, monitoring, CSRP, LSB, CSAO etc.

Organization	Function	Oversight/Monitors Whom	Current HRS Authority?
CSRP – Authorizer	<p>-Dictated in statute change (Model Law), including but not limited to specific responsibilities detailed in charter contract</p> <p><i>-Get NACSA recommendations</i></p>	<p>-Charter Schools they have authorized;</p> <p>-Until another authorizer comes on board, ALL CS's fall under CSRP's purview.</p> <p><i>-How does the authorizer hold LSBs accountable?</i></p>	<p>-Powers and Duties Currently in 302B-3.</p> <p>-Generally panel establishes operating procedures, including conflict of interest procedures;</p> <p>-Specific duties are listed in 302B-3(i)</p> <p>-Under 302B-14, Panel is responsible for conducting multi-year evals of CS's, placing CS's on probationary status, revocation of charter</p> <p><i>Note:</i>  <i>302B-3 will likely be repealed or amended to incorporate Model Law/NACSA recommendations.</i>  <i>302B-14, (b) through (i) will be amended to reflect the language in Section VII(3) of the Model Law (Renewals, Revocations, and Non-Renewals)</i></p>
CSAO	<p><i>-Roger to do homework re: functions</i></p> <p><i>-Get NACSA recommendations</i></p>		<p>-302B-8 (as amended by Act 130, SLH 2011) makes CSAO responsible for internal organization, operation, and management of CS system; including, but not limited to:</p> <p>-Preparing budget, CIP requests for CS's;</p> <p>-Allocating appropriations to CS's and distribution of federal funds to CS;</p> <p>-Preparing contracts between CS and DOE;</p> <p>-Providing advocacy, support, assistance to CS's</p> <p>-Assisting CSRP</p> <p>-Assisting CS with collective bargaining</p> <p>-Ensure that local school boards are fulfilling their oversight responsibilities pursuant to section</p>

			302B-7 (Act 130)
LEA	<ul style="list-style-type: none"> <li>-Serves as public authority with administrative control for charters as it relates to distribution of federal and title funds (see draft statute change definition of LEA)</li> <li>-<i>Work in progress, need to flesh out of what is an LEA Bob homework.</i></li> <li>-Seek out and apply for/comply with federal funding opportunities</li> </ul>	<ul style="list-style-type: none"> <li>-LEA ensures compliance with all federal reporting requirements</li> <li>-LEA works with Authorizers to ensure all schools are complying</li> <li>-Works with LSB and/or Authorizer on corrective action plans for schools that are in trouble</li> </ul>	<ul style="list-style-type: none"> <li>-Not in HRS; Language will need to be crafted</li> </ul>
LSB	<ul style="list-style-type: none"> <li>-Autonomous governing body of the school</li> <li>-Ensure compliance with laws and regulations</li> <li>-Negotiates supplemental collective bargaining agreements</li> </ul>	<ul style="list-style-type: none"> <li>-Oversee all aspects of a schools organizations-finance, academic, personnel, adherence to charter/performance contract</li> <li>-Collective bargaining</li> <li>-<i>Change makeup requirements of LSB, based on best practices and flexibilities.</i></li> <li>-<i>Training component added to HRS/HAR LSB's</i></li> <li>-<i>Add in compliance with their performance contract</i></li> <li>-<i>Add in specific section delineating relationship between authorizer and LSB (federal compliance, charter contract, etc).</i></li> </ul>	<p>Powers and duties found in 302B-7, as amended by Act 130, SLH 2001, includes but is not limited to the following:</p> <ul style="list-style-type: none"> <li>-LSB are autonomous governing body of its CS and shall have oversight (Act 130) and responsibility for financial an academic viability of CS</li> <li>-Determines organization, management of school, curriculum, virtual education, compliance with state and federal laws, developing internal policies for procurement of goods and services, make LSB agendas and minutes available;</li> <li>-Develop internal procedures to ensure policies and procedures meet chapter 84 ethics requirements (Act 130)</li> </ul>
SEA	<ul style="list-style-type: none"> <li>-Administers all federal education programs in the State</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring and general supervision over LEAs.</li> </ul>	<ul style="list-style-type: none"> <li>26-12 lays out general duty of DOE (Sup't) as administrating education and public instruction</li> </ul>

	<p>-Provides technical assistance, general supervision, disbursement of funds, monitoring tech assistance, reports to Washington on all required data</p> <p>-Work in progress</p>		<p>throughout the State</p> <p>Role of DOE in CS's as laid out in chapter 302B is limited to 302B-15 re: SPED</p> <p>Authority for the SEA functions as they currently stand may be in federal law.</p> <p>Will likely have to craft new HRS language specifically to deal with the roles and responsibilities of the SEA in relation to a CS LEA.</p>
BOE (as it relates to CS)	<p>-Formulates statewide educational policy</p> <p>-Statewide Authorizer Oversight body; (authorizer of authorizers)(Model Law)</p> <p>-Appellate body</p>	<p>-BOE oversees all authorizers</p> <p>-Final arbitrator on decisions</p>	<p>302B-3.5 – BOE has power to decide appeals from the decision of CSRP to deny/revoke charter or deny amendment to DIP</p> <p><i>Note: Model Law language to be incorporated re: BOE's role as to Authorizers.</i></p>

# Appendix J

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

October 12, 2011

Conference Room 225, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Tammi Chun, Office of the Governor  
Roger McKeague, Charter School Administrative Office  
Ruth Tschumy, Charter School Review Panel  
Aja Siu on behalf of Megan McCorriston, Ho‘okako‘o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Steve Sullivan, Hawaii Charter Schools Network  
Lisa Okinaga, Kamehameha Schools

Also present: Stephanie Shipton, National Governors Association

**II. Adoption of Minutes**

Mr. Zarro moved that the minutes of the September 21, 2011 Task Force meeting be approved. Mr. Sullivan seconded the motion.

The Task Force unanimously adopted the motion and the minutes were adopted.

**III. Discussion on Overall Governance Structure, including LEA/SEA Functions and Lines of Authority**

Senator Tokuda presented the notes from Working Group 2/3 on the overall governance structure for charter schools. The Working Group 2/3 Report is attached hereto.

The Working Group discussed creating a revised organizational structure which includes the establishment of the Charter School Liaison Office ("CSLO") to be administratively attached to the Office of the Superintendent. The CSLO would be an alternative to setting up a separate LEA for charter schools. See Attachment 1 for a copy of the organizational chart. The Working Group also established specific functions to be carried out by the CSLO. The specific functions are laid out in Attachment 1.

The Working Group also considered an alternative organizational structure presented by a Working Group member. See Attachment 2.

In addition, the Working Group also discussed the option of Special Education Local Plan Areas and Joint Powers of Authority, which are unique to California, as an alternative to establishing a Charter School LEA. A determination was made that their structure would not give charter schools the necessary authority or transparency; however, the Working Group

recommended that the Task Force's report include a desire for further investigation and research at a later time. See Attachment 3.

The Task Force discussed the Working Group's notes and the establishment of the CSLO. The Task Force discussed the functions of the CSLO as well as the method in which the CSLO Director would be hired or selected. Recommendation was made that the Director be appointed by the Superintendent in consultation with charter school stakeholders and with the ultimate approval of the Board of Education, similar to the method in which Complex Area Superintendents are hired.

The Task Force also discussed the relationship between the various charter school entities and the need to separate the LEA and SEA functions within the Department of Education. See Attachment 4 attached hereto.

#### **IV. Overview of All Recommendations Considered by Task Force**

Senator Tokuda summarized the recommendations the Task Force has considered up to this point. They include:

- (1) Taking the current charter school organization chart off of the CSAO website;
- (2) Allowing for multiple charter school authorizers;
- (3) Adopting sections of the Charter School Model Law ("Model Law") dealing with authorizers;
- (4) Replacing the Detailed Implementation Plan with a performance contract based on the Model Law;
- (5) Changing the name of the CSRP based on the Model Law;
- (6) Possibly changing the composition and selection process of the CSRP;
- (7) Requiring authorizers to submit an annual report based on the Model Law;
- (8) Having the Board of Education as the entity with ultimate oversight over authorizers based on the Model Law and NACSA recommendations;
- (9) Incorporating Model Law language relating to charter renewal and revocation into the Hawaii Revised Statutes;
- (10) Changing the overall governance structure based on the recommendations of Working Group 2/3 to establish the CSLO; and
- (11) Clearly setting out the roles, relationships, and responsibilities of the various charter school entities based on the Task Force's discussion of Attachment 4.

#### **V. Reassessment of Task Force Timeline and Outline of Next Steps**

The following issues have not yet been fully discussed by the Task Force:

- (1) The roles and responsibilities of the Local School Boards and a review of NACSA recommendations on this issue;
- (2) The Bin items;
- (3) Existing Hawaii Revised Statutes, including a determination of what the Task Force will recommend to keeping from existing law;

- (4) The current functions of the CSAO in relation to the functions of the new CSLO;
- (5) Consultation language relating to the appointment of the Director of the new CSLO; and
- (6) How the CSLO will consult with charter school on federal grants.

The Task Force will add an additional meeting on November 2, 2011 in room 225 from 10:00 a.m. to 12:00 p.m. to discuss outstanding issues. If the Task Force feels another meeting is necessary, it will meet again on November 30, 2011.

A working group meeting will be held on October 21, 2011 in room 225 from 1:00 p.m. to 3:00 p.m.

## **VI. Adjournment**

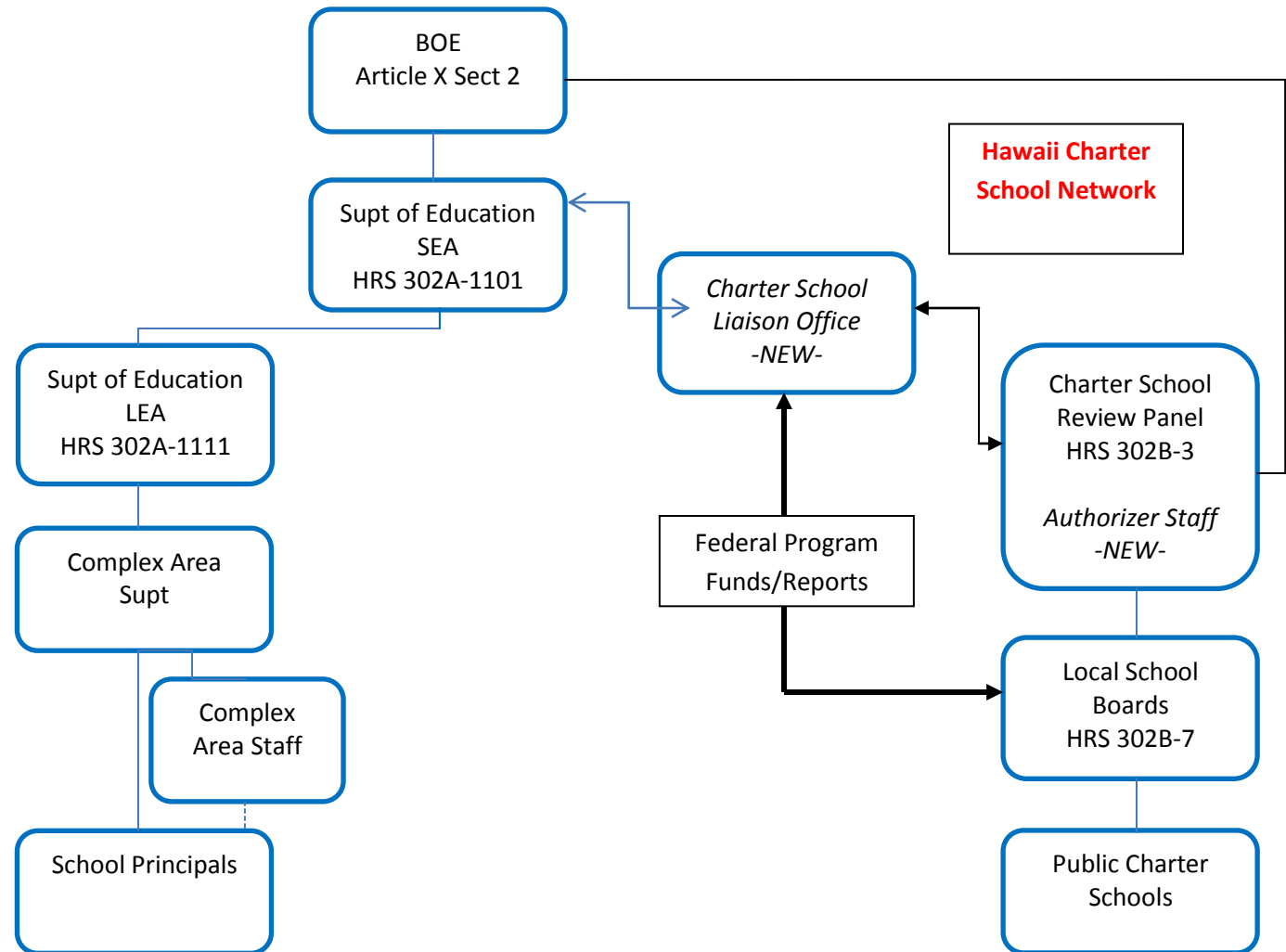
The meeting was adjourned.

**Charter School Governance, Accountability & Authority Task Force**  
**Working Group 2/3 Report**  
**October 12, 2011**

**Organizational Chart:**

- Using the Draft Plan B that was discussed at the September 21<sup>st</sup> task force meeting, the working group proposed and discussed various variations to the chart. (see attachment #1)
- An alternate draft was submitted for consideration by task force members which helped to better identify where areas of concern existed. (see attachment #2)
- The group had a discussion of what constituted “statewide educational policy.” In looking through HRS, the term is never specifically defined and appears in both the constitution and HRS as the primary function of the BOE, and the responsibility of the Superintendent and Principals to execute and administer. Recommendation was made that given the universal nature of the term, that it be a separate discussion with BOE and DOE leadership for inclusion in the 2012 HRS Audit package of bills.
- Request was made to explore the option of SELPA’s (Special Education Local Plan Area) or JPA’s (Joint Powers Authority) as an alternative to a Charter School LEA. SELPA’s and JPA’s are very unique to California charter schools. After investigating the idea further with NGA and others, determination was made that the structure would not give charter schools the kind of authority or transparency they were looking for. Recommendation was made to include in our report a desire for further investigation and research into the concept of MOU’s or SELPA/JPA’s. Dr. Vicki Barber will be in Hawaii in November and is an expert in this area. She has indicated her willingness to discuss this with us further. (see attachment #3)
- Request was also made to explore the viability of the Fix America’s Schools Act measure going through Congress and determine whether or not a single LEA system would be a detriment in regards to possible additional Title I funds. Determination was made after consultation with NGA and Congressional offices that because the bill was tied to the Jobs Act, passage will be difficult. Further, the way additional funds would be granted to states would result in a zero sum gain for Hawaii IF the bill did pass and IF we qualified for additional funds.
- In considering the Board of Education’s role, recommendation was made to have the BOE serve as the final arbitrator for any conflicts that may exist between DOE and charter school entities. Recommendation was also made to have the BOE approve the Charter School Liaison Office Director, similar to how their approval is required for a Complex Area Superintendant.

- The group worked on developing specific function statements for the Charter School Liaison Office.
  - Provides technical assistance to charter school entities in regards to state and federal laws.
  - Serves as the point of contact between the Superintendant and the Authorizer on issues relating to compliance with all applicable federal funds, including but not limited to the collection of required data and reports.
  - Responsible for communicating and consulting with charter school entities on any SEA or LEA applications, proposals and requirements for federal grant funds.
  - Serves as the point of contact for all questions or inquiries relating to the distribution of federal funds to charter schools.
  - Serves as an ombudsman for charter schools as it relates to departmental issues and concerns.
- Request was made to create a narrative description of the relationship between various entities on the organizational chart. (see attachment #4)

**Working Group #2 Plan B - DRAFT 1 (10-5-11)**

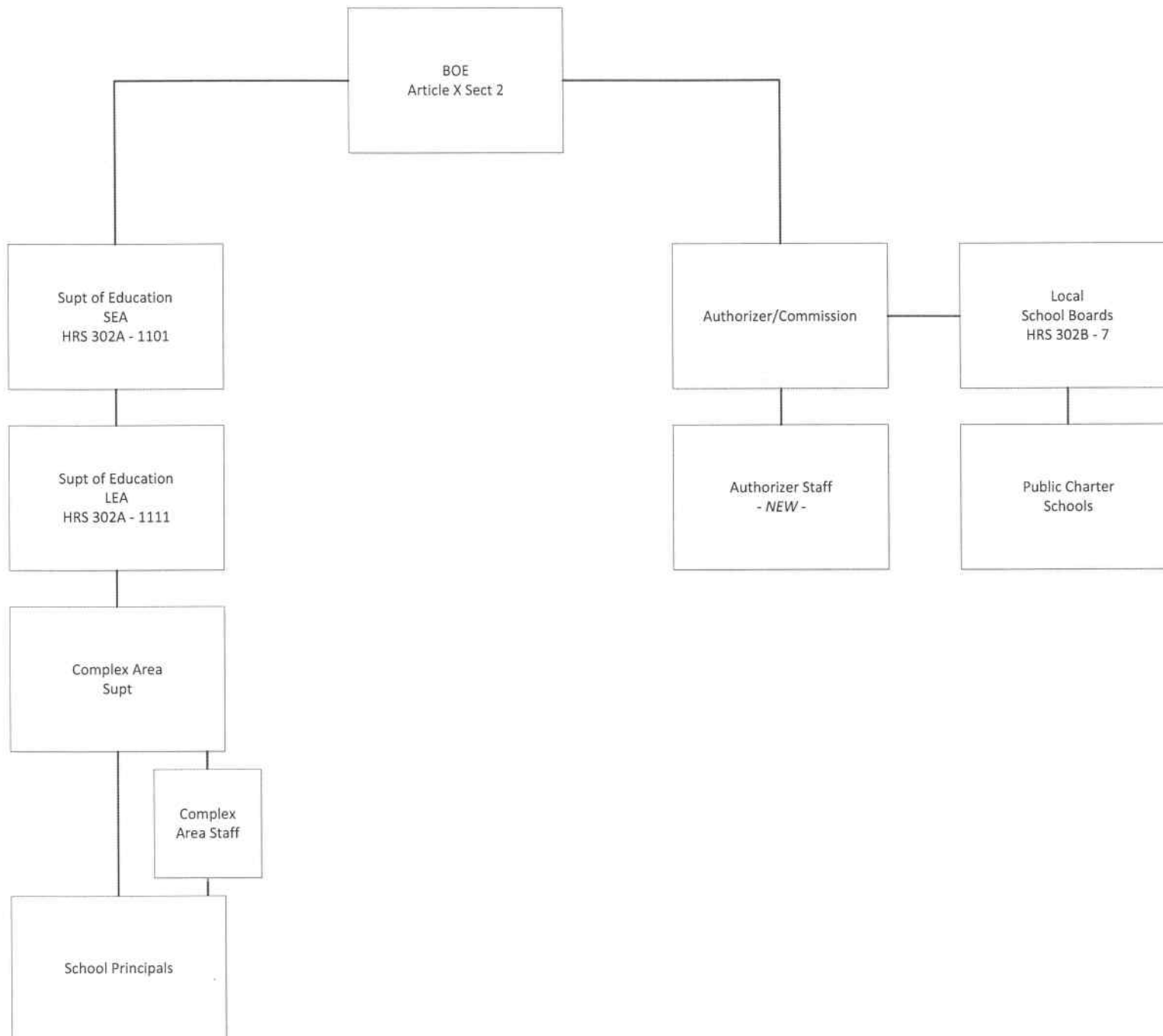
### **Charter School Liaison Office:**

*There shall be within the Office of the Supt a Charter School Liaison Office which shall be responsible for the overall administration of statewide educational policy & development of standards for compliance w/state & federal laws as they are applicable to public charter schools (HRS302A-1102)*

*The Director of the Charter School Liaison Office shall serve as the liaison within the DOE for the purpose of coordinating PCS involvement and/or required participation in any SEA or LEA applications & proposals for federal grant funds.*

### **Specific Functions:**

- Provides technical assistance to charter school entities in regards to state and federal laws.
- Serves as the point of contact between the Superintendant and the Authorizer on issues relating to compliance with all applicable federal funds, including but not limited to the collection of required data and reports.
- Responsible for communicating and consulting with charter school entities on any SEA or LEA applications, proposals and requirements for federal grant funds.
- Serves as the point of contact for all questions or inquiries relating to the distribution of federal funds to charter schools.
- Serves as an ombudsman for charter schools as it relates to departmental issues and concerns.



**Sen. Jill Tokuda**

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**From:** Shipton, Stephanie [SShipton@NGA.ORG]  
**Sent:** Wednesday, October 05, 2011 9:44 AM  
**To:** Sen. Jill Tokuda  
**Cc:** Joe Nathan  
**Subject:** SELPA and joint provisional authority

Senator Tokuda,

Joe and I both strongly advise you against establishing a SELPA like structure as the mechanism for charter schools to interface with the department and other state entities. SELPAs and JPAs are often used in larger states as a way to consolidate back office functions - I.e shifting school level bureaucracy associated with procurement of materials and HR from a single school to an intermediary organization that services multiple schools. These are not structures designed to provide the complete portfolio of services that a school district would provide. If anything, the creation of a SELPA like structure to handle interface with the department and others, would create an additional layer of bureaucracy that the schools would have to deal with; making an already complex situation more complex. However, some schools may want to come together to work with a third party to only consolidate back office operations. That may be beneficial during a time of constrained budgets. Let me know if you have any more questions for either Joe or I on this topic.

Stephanie

Please excuse typos; sent from my iPhone The information contained in this electronic transmission, including any attachments, is for the exclusive use of the intended recipient(s) and may contain information that is privileged, proprietary, and/or confidential. If the reader of this transmission is not an intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any review, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender and delete this message.

## Joint Powers Authority

What is a JPA? A JPA is an entity permitted under the laws of some states, whereby two or more public authorities (e.g. local governments, or utility or transport districts) can operate collectively.

How are JPAs used? JPAs may be used where:

- \* an activity naturally transcends the boundaries of existing public authorities. An example would be the Transbay JPA, set up to promote the construction of a new transit centre in San Francisco, with several transportation boards and counties around the San Francisco Bay Area as members;

- \* by combining their commercial efforts, public authorities can achieve economies of scale or market power. An example is U.S. Communities, a purchasing consortium of local government agencies.

How are JPAs run? They have separate operating boards. These boards can be given any of the powers inherent in all of the participating agencies. The authorizing agreement states the powers the new authority will be allowed to exercise. The term, membership, and standing orders of the board of the authority must also be specified. The joint authority may employ staff and establish policies independently of the constituent authorities.

How are JPAs authorized? JPAs receive existing powers from the creating governments.

In California, the state established a Joint Exercise of Powers Law (Government Code section 6500 et seq.) ("JPA Act"). The JPA Act authorizes two or more state and/or local governmental agencies to enter into a joint powers agreement to jointly exercise any power common to the contracting parties. There are two types of joint powers agreements.

Under one type of agreement, the government agency parties contract under the JPA Act to create a new government agency, known as a joint powers authority (sometimes also known as a joint powers agency). A joint powers authority is a legal entity separate and distinct from the member agencies that created it.

Under the other type of joint powers agreement, the parties do not create a separate joint powers authority. Instead, the agreement delegates to one of the parties the power and responsibility to perform some task and/or exercise some power on behalf of all the parties, usually subject to some oversight and control by a governing board or other mechanism established by the agreement.

(Source: [http://en.wikipedia.org/wiki/Joint\\_Powers\\_Authority](http://en.wikipedia.org/wiki/Joint_Powers_Authority))

## Special Education Local Plan Area (SELPA)

**What is a SELPA?** In California from 1977, all school districts and county school offices were mandated to form consortiums in geographical regions of sufficient size and scope to provide for all special education service needs of children residing within the region boundaries. Each region, Special Education Local Plan Area (SELPA), developed a local plan describing how it would provide special education services.

SELPAs are dedicated to the belief that all students can learn and that special needs students must be guaranteed equal opportunity to become contributing members of society. SELPAs facilitate high quality educational programs and services for special needs students and training for parents and educators. The SELPA collaborates with county agencies and school districts to develop and maintain healthy and enriching environments in which special needs students and families can live and succeed.

(Source: <http://www.cde.ca.gov/sp/se/as/caselpas.asp>)

SELPAs coordinate with school districts and the County Office of Education to provide a continuum of programs and services for disabled individuals from birth through 22 years of age. SELPAs are also available as a resource to the community on issues related to special education.

(Source: <http://www.sccoe.k12.ca.us/depts/selpa/>)

**What role does a SELPA play?** In general, the SELPA provides the following services to its participating Local Educational Agencies (LEAs):

### Program:

- Consult with LEAs to improve the effectiveness of special education through program review and modification.
- Coordinate services among LEAs and community agencies.
- Identify needs for new classes and services.
- Provide standardized policies and procedures for the operation of special education programs within the SELPA region.

### Support Services:

- Provide direct assistance to administrators, individual teachers,

resource specialists, and support staff as requested.

- Provide regional staff development programs in areas of need specified by participating LEAs, specialists, and parents.
- Provide clinical counseling services to eligible special education students.
- Facilitate the education of students with learning problems in the general education environment.
- Coordinate interagency agreements.
- Promote community awareness.
- Assure the education of persons with disabilities in the least restrictive environment.
- Arrange for specialized assessments.
- Facilitate professional collaboration groups.
- Coordinate transition services from school to work.

How are SELPAs run?

(Source: <http://www.lake-coe.k12.ca.us/apps/Comm.asp?Q=38>)  
SELPA is a government agency. All SELPA governance structures all have Superintendents Council (policy matters); Steering Committee (procedural matters); Community Advisory Committee (made up of at least 51% of parent members)

### Narrative Description of Relationships Between Charter School Entities

Entities	Description of Relationship
Board of Education & the Charter School Review Panel (authorizer)	<ul style="list-style-type: none"> <li>-BOE oversees authorizers (per model law recommendations).</li> <li>-Appoints CSRP members.</li> <li>-CSRP required to submit annual reports to the BOE &amp; the Legislature for review.</li> <li>-BOE will hold the CSRP accountable to adhere to the principles and standards of the applicable portions of the model law (recommended additions from Sec. 5 &amp;7)</li> </ul>
Superintendent & Charter School Liaison Office	<ul style="list-style-type: none"> <li>-CSLO within the Office of the Superintendent. Director of the Office to go through BOE approval process (HRS302A-604). Recommended language: <i>"The Superintendent of Education, with the approval of the Board, shall appoint a Director of the Charter School Liaison &amp; Support Office."</i></li> <li>-CSLO Director to be included in appropriate &amp; applicable discussions as set forth in statute (recommended changes).</li> </ul>
Charter School Liaison Office & Charter School Review Panel	<ul style="list-style-type: none"> <li>-CSLO to provide CSRP with technical assistance as it relates to state &amp; federal laws.</li> <li>-CSLO will inform the CSRP of school status in regards to compliance with state and federal requirements.</li> <li>-CSLO to serve as ombudsman for charter schools as it relates to departmental issues and concerns.</li> <li>-CSRP to provide data to CSLO for the purposes of state funds (ie. Per pupil, facilities)</li> </ul>
Charter School Liaison Office & Local School Board	<ul style="list-style-type: none"> <li>-Distribution of federal funds and all related reporting requirement requests will go from the CSLO (ie. DOE) directly to the LSB for appropriate use and data collection.</li> <li>-CSLO to provide LSB with technical assistance and guidance as it relates to state and federal laws.</li> <li>-Serve as liaison between DOE &amp; CS's on any SEA or LEA applications and proposals for federal grant funds.</li> <li>-CSLO to serve as ombudsman for charter schools as it relates to departmental issues and concerns.</li> </ul>
Charter School Review Panel & Local School Board	<ul style="list-style-type: none"> <li>-CSRP will execute and monitor a charter contract that includes a performance framework with LSB.</li> </ul>

	-Any corrective or enforcement actions needed will be worked through the LSB.
Board of Education & All Charter School Entities	- (Existing) The BOE deals with all appeals on charter school applications, revocations & DIP amendments. Would expand role & make the BOE the final arbitrator for any conflicts that may exist between DOE & CS entities.
<b>Other Entities</b>	
Hawaii Charter School Network to Charter Schools	<p>-The activities of the Network shall include linking charter schools in the State of Hawaii to each other and to the charter efforts in other states, providing information and services to schools and individuals interested in establishing or improving the performance of charter schools in Hawaii, promoting and conducting research on educational reform, serving as a “vendor” for services needed by charter schools, and promoting partnerships with businesses and organizations for both the Network and its member schools.</p> <p>-Could be contracted to provide technical assistance and support, as is done in other jurisdictions and states.</p>

# Appendix K

MINUTES OF THE CHARTER SCHOOL GOVERNANCE, ACCOUNTABILITY, AND  
AUTHORITY TASK FORCE (ACT 130, SESSION LAWS OF HAWAII 2011)

November 2, 2011

Conference Room 225, State Capitol

**I. Members Present**

Senator Jill Tokuda, Hawaii State Senate  
Della Au Belatti, Hawaii State House of Representatives  
Tammi Chun, Office of the Governor  
Roger McKeague, Charter School Administrative Office  
Don Horner, Chair Board of Education  
Ruth Tschumy, Charter School Review Panel  
Robert Campbell, Department of Education (Superintendent of Education's Designee)  
Chris Kono on behalf of Megan McCorriston, Ho'okako'o Corporation  
Gene Zarro, Hawaii Charter Schools Network  
Lisa Okinaga, Kamehameha Schools

Also present: Representative Roy Takumi

**II. Adoption of Minutes**

Mr. Zarro moved that the minutes of the October 12, 2011 Task Force meeting be approved. Mr. Horner seconded the motion.

The Task Force unanimously adopted the motion and the minutes were adopted.

**III. Discussion of "The Bin" items**

Senator Tokuda presented the notes from Working Group on the following items:

**A. Collective Bargaining**

The recommendation from the Working Group is that collective bargaining issues be addressed at a future meeting with appropriate legislative committee chairs, labor leaders and key stakeholder groups.

The Task Force agreed with this recommendation.

**B. Configuration and appointment process of Charter School Review Panel**

The Working Group proposed that the composition and appointment process of the Charter School Review Panel, to be called the State Public Charter School Commission ("Commission"), be similar to the composition and appointment process of the Board of Education pursuant to Act 5, Session Laws of Hawaii 2011.

The recommended statutory language can be found in the "Next Steps" Working Group Report attached. Possible consultation language for the hiring of the Executive Director of the Commission was provided by Mitch D'Olier of the Castle Foundation.

The Task Force discussed the possibility of having ex officio members on the Commission. Mr. Zarro agreed to that this idea back to the members of the Hawaii Charter School Network. This issue will be discussed further at the next Task Force meeting.

### **C. Configuration and appointment process of Local School Boards**

The Task Force discussed possible changes to the configuration and appointment process of members of Local School Boards, to be called Governing Boards based on the Charter School Model Law. Areas of discussion included:

- (1) Whether to prohibit any employee or relative of an employee as serving as Chair of a Governing Board;
- (2) Requiring that no more than 1/3 of a Governing Board shall be employees of the charter school;
- (3) Whether, in the long term, the Governing Board's should consider, based on the practice of good non-profit organization, that employees of charter schools only be allowed to serve in an ex officio capacity;
- (4) The importance that Governing Boards be reflective of the school community and the community at-large;

The Task Force will continue to discuss this issue at the next Task Force meeting.

### **D. Transition plan for schools, Charter School Review Panel, Charter School Administrative Office and Department of Education.**

The Task Force discussed the possibility of creating a Follow Up Committee, separate and apart from the Task Force, to assist with charter school entities with transitioning under any statutory changes resulting from the Task Force's recommendations to the Legislature.

The Task Force also discussed the National Association of Charter School Authorizer's ("NACSA") recommendation that there be a one-year moratorium on reauthorization. While the Hawaii Revised Statutes do not provide for a required timeline for reauthorization, the CSRP was asked to make a formal request to the Attorney General's office for an opinion on whether the CSRP may place a one-year moratorium on reauthorization to allow for the implementation to statutory changes resulting from the Task Force's recommendations.

The Task Force also discussed applications during the transition period. It was recommended that December 2011 applicants be made aware that their Detailed Implementation Plan is a charter application and that at the end of the process, should they be authorized, there will be an official performance contract between Commission (CSRP) and their Governing Board (LSB).

One issue that needs to be addressed is what entity would support and staff the Follow Up Committee.

The Task Force will continue to discuss the transition plan at the next Task Force meeting.

#### **E. Model Law & Statutory Definitions**

The Task Force discussed amending the definition of Local School Boards by adopting the Charter School Model language. As such, Local School Boards would be referred to as Governing Boards.

The Task Force agreed to change the definition of Local School Boards. The recommended statutory language can be found in the "Next Steps" Working Group Report attached.

#### **F. Inclusion of Other Governmental Agencies as Charter School Authorizers**

The Task Force agreed that other governmental agencies could serve as charter school authorizers as provided for in the Charter School Model Law.

#### **G. Funding**

The Working Group recommended that funding issues, including facilities funding, should be discussed at a future meeting between legislative money chairs/legislative staff, the Board of Education, Department of Education, Department of Budget and Finance and the charter school community.

The Task Force agreed with this recommendation.

#### **H. Multiple Charter School Authorizers**

The Task Force discussed whether to allow for multiple charter school authorizers in light of NACSA's recommendation that Hawaii should delay allowing multiple authorizers for approximately two years. The Task Force discussed allowing for multiple authorizers but requiring the Board of Education to promulgate administrative rules first. The Task Force also discussed the possibility of having benchmarks for rule making, an evaluation of the existing process with the current authorizer, and requiring the Board of Education, as part of its annual reporting requirements, to provide the Legislature a status of the adoption of rules.

This issue, including what specific benchmarks must be met, will be discussed further at the next Task Force meeting.

#### **J. Establishment of a Uniformed Education Reporting System (Separate Financial System/Data Reporting)**

The Task Force discussed the need to develop and implement a Uniform Education Reporting System, which shall include standards and procedures for collecting fiscal, student, and personnel information. The Task Force also discussed the need for key stakeholders to be included on discussions related to developing and implementing such a system.

Potential statutory language can be found in the "Next Steps" Working Group Report attached.

#### **K. Reconcile Potential Task Force Changes with Existing Chapter 302B**

The Task Force discussed what specific language in the existing Charter School Law, Chapter 302B, Hawaii Revised Statutes, should be included in any new statutory language that will be recommended to the Legislature. The Task Force also discussed changes to some of the Model Law language it wishes to include in its recommendations to the Legislature.

A Working Group will continue to go through the details of Chapter 302B and the Model Law to craft language for statutory recommendations to the Legislature and report back to the Task Force.

#### **IV. Hawaii Charter School Network Road Show**

Mr. Zarro announced that the Hawaii Charter School Network ("HCSN") will be having a "road show" on the different islands to share the work of the Task Force with HCSN members. The schedule will be posted on the Task Force website once it is finalized.

#### **V. Announcements**

A working group meeting will be held on Wednesday, November 9, 2011 in room 225 from 1:00 p.m. to 3:00 p.m.

The next Task Force meeting is scheduled for November 30, 2011 in room 225 from 10:00 a.m. to 12:00 p.m.

#### **VI. Adjournment**

The meeting was adjourned.

# Charter School Governance, Accountability & Authority Task Force

## "Next Steps" Working Group Report

### November 2, 2011

While the working group met twice, it is important to note that a number of members were not present at the October 26, 2011 meeting, so as with all of our working group reports, the recommendations below are in DRAFT form and are being presented for discussion purposes at the task force meeting.

Area of Discussion	Level of Follow Through for Task Force/Next Steps
<b>BIN ITEMS</b>	
Collective Bargaining	-Would like a separate meeting w/labor chairs, labor, DOE and ATG. Discuss issues of autonomy as it relates to school personnel management.
Configuration and Appointment Process of CSRP	<p>Proposed Statutory Changes:</p> <p><b><u>"§302B-A State public charter school commission; establishment; appointment. (a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be placed within the department of education for administrative purposes only. Notwithstanding section 302B-9 and any law to the contrary, the commission shall be subject to chapter 92.</u></b></p> <p><b><u>(b) The mission of the commission shall be to authorize high-quality charter public charter schools throughout the State.</u></b></p> <p><b><u>(c) The commission shall consist of nine members to be appointed by the board of education. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The board shall consider the combination of abilities, breadth of experiences,</u></b></p>

	<p><u>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.</u></p> <p><u>(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:</u></p> <p><u>(1) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;</u></p> <p><u>(2) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member;</u></p> <p><u>(3) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such; and</u></p> <p><u>(4) Commitment to education. Each 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</u></p>
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	<p><u>performing charter school system.</u></p> <p><u>(e) Each nominee to the commission shall ideally meet the following recommended qualifications:</u></p> <p><u>(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and</u></p> <p><u>(2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding board policies.</u></p> <p><u>(f) Five members of the commission shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the commission valid.</u></p> <p><u>(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012 shall be staggered as follows:</u></p> <p><u>(1) Three members to serve three-year terms;</u></p> <p><u>(2) Three members to serve two-year terms;</u></p> <p><u>(3) Three members to serve one-year terms.</u></p>
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	<p>(h) <u>Commission members shall receive no compensation. When commission duties require that a commission member take leave of the members duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to provide that member's duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.</u></p> <p>(i) <u>The commission shall establish operating procedures that shall include conflict of interest procedures for any member whose school of employment or governing board is before the commission.</u></p> <p>(j) <u>The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter."</u></p> <p><u>Session law language:</u></p> <p>"Notwithstanding any law to the contrary, the members of the charter school review panel serving on the day of the effective date of this Act shall serve on the state public charter school commission until the appointment of no fewer than five members to the state public charter school commission pursuant to this Act, at which time all members of the charter school review panel shall discharged from and the members of the state public charter school commission shall begin their service; provided that any vacancy in charter school review panel occurring between the effective date of this Act and the discharge from</p>
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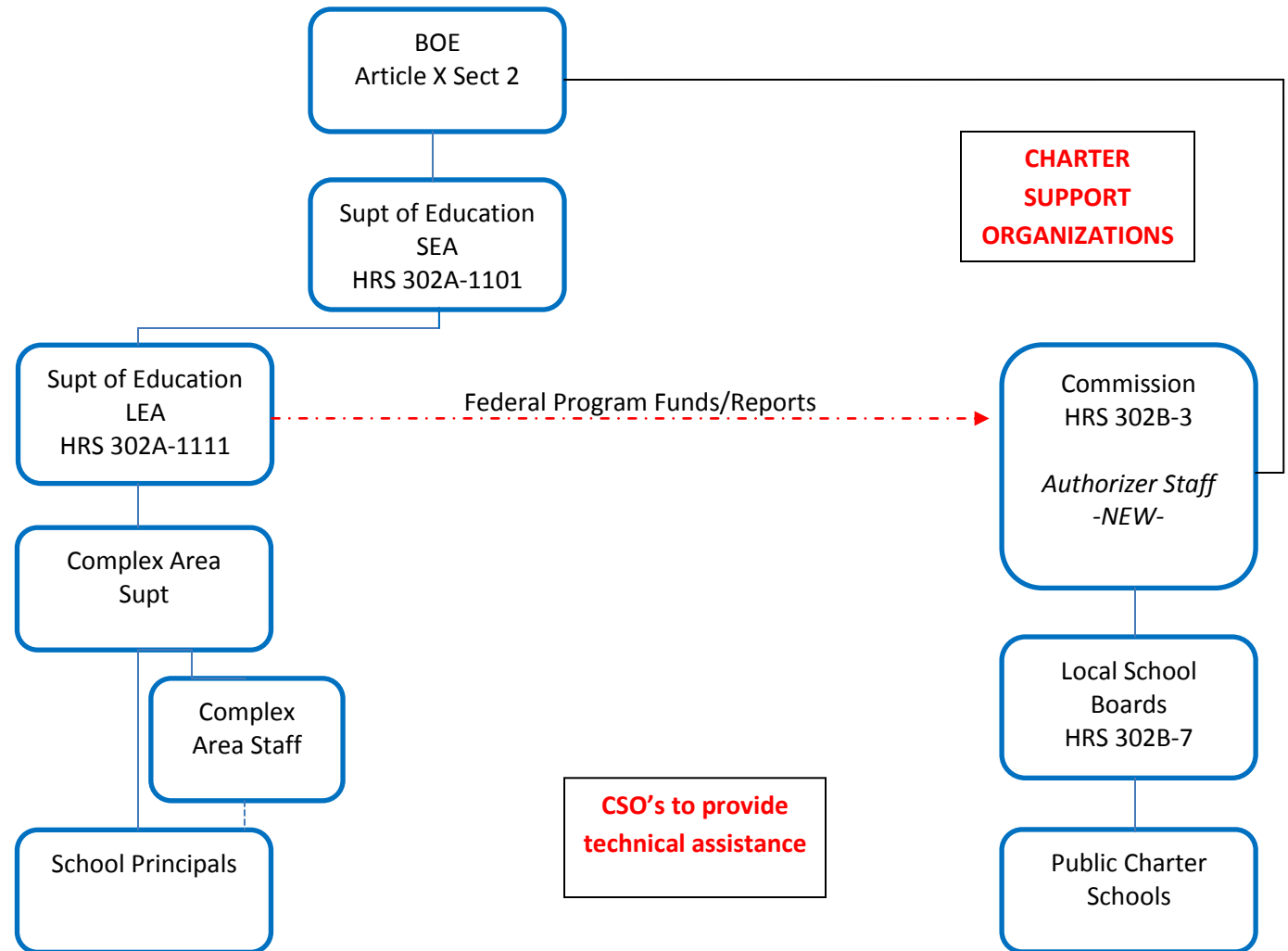
	office of all charter school review panel members shall remain vacant until appointed to the state public charter school commission by the board of education pursuant to this Act. "
Configuration and Appointment Process of LSB; Overall Function of LSB	<p>-Ideally, would like to recommend specific changes to the composition of the governing board. Will circulate guidelines used for BOE appointment process. <i>Come back to next meeting with ideas/research. Should we allow vs. require; or create ex-officio status for employees?</i></p> <p>-NACSA</p>
Transition Plans (for schools, CSRP/CSAO, DOE)	<p>-ATG Opinion (regarding contract language; phase in)</p> <p><b>-Follow Up Committee:</b> members strongly vested in accountability (includes School Directors; LSB members; authorizers). Look at converting to a contract; changes in practice; establishment of CSLO. Deal with transitional issues that result from legislative action (ie. CSRP &amp; LSB composition) &amp; those transitions can take place now (ie. Performance contract).</p> <p><b>-Follow Up Committee will be administratively attached to CSRP.</b></p> <p><b>-Reauthorizations:</b> Recommend that the task force adopt NACSA recommendations to push back reauthorization for a year until performance contracts in place.</p> <p><b>-Authorizations:</b> Recommend that December 2011 applicants are well aware that the DIP is their charter application and that at the end of the process should they be authorized, there will be an official performance contract between CSRP and their LSB.</p>
Model Law & Statutory Definitions	<p>(REPLACE LSB DEFINITION)</p> <p>A "governing board" means the independent board of a public charter school that is party to</p>

	<p>the charter contract with the authorizer that:</p> <p>(1) Is responsible for the financial, organizational and academic viability of the charter school and implementation of the charter;</p> <p>(2) Possesses the independent authority to determine the organization and management of the school, the curriculum, virtual education; and</p> <p>(3) Ensure compliance with applicable federal and state laws; and</p> <p>(4) Has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees.</p>
Other State or County Agencies as Authorizers	-Would be allowed through model law language.
Chapter 92 as it relates to Governing Boards	-Discuss at Task Force Mtg on November 2 <sup>nd</sup> .
Funding (including transportation)	-Seek a facilitated meeting between legislative money chairs/legislative staff and charter school community.
Facilities Funding	-Seek a facilitated meeting between legislative money chairs/legislative staff, DOE, B&F and charter school community.
Multiple Authorizers (NACSA)	<p>-Put in statute the possibility; benchmarks for rule making; evaluation of existing process with current authorizer.</p> <p>-Include in annual reporting requirements for the BOE their status on rules adoptions for multiple authorizers.</p>
<b>REQUIRED REPORTING:</b> -Data Reporting Uniformity (David Wu) -Separate Financial System -Personnel data	<p><b><i>Issue: Need to develop and implement a Uniform Education Reporting System, which shall include standards and procedures for collecting fiscal, student, and personnel information.</i></b></p> <p>"The State BOE shall establish a Uniform</p>

	<p>Education Reporting System that shall include requirements for reporting fiscal, personnel, and student data, by means of electronic transfer of data files from charter schools to the Department. All charter schools shall comply with the requirements of the Uniform Education Reporting System by the beginning of the 2012-13 school year."</p> <p>Recommendation: Request that HCSN facilitate communications with the Department (David Wu) to address this issue and identify what changes need to take place in both practice and policy.</p> <p>Key Stakeholders to be included in communications: David Wu, Business Managers/Fiscal Administrators, Executive Directors</p>
<b>TASK FORCE ISSUES</b>	
Definition of Consultation for use in appointment of Director position; when dealing with SEA/LEA grant applications & proposals	
Reconcile Changes with Overall Existing 302B	
Evaluation of Existing CSAO functions; assignment to other entities under new structure?	
Other NACSA Recommendations: ie, tighten application process.	

# Appendix L

## Charter School Organizational Chart (Nuclear Model 12-07-11)



# Appendix M

**Final Recommendations for Charter School Task Force**  
**December 7, 2011**

Area of Discussion	Recommendation
<p><b>Eligible Authorizing Entities</b></p> <p><i>Most Notable: Allows for Multiple Authorizers. Based on model law.</i></p>	<p><u>Model Law Section 5(1):</u></p> <p><b><u>"§302B-D Eligible authorizing entities.</u></b> (a) <u>The state public charter school commission created under section 302B-A may authorize public charter schools anywhere in the state; provided that the commission fulfills the requirements of all public charter school authorizers under this chapter.</u></p> <p><u>(b) Governing boards of accredited public and private postsecondary institutions, including community college, technical colleges, and four-year universities may apply to the commission, pursuant to section 302B-C, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.</u></p> <p><u>(c) A county or state agency may apply to the commission , pursuant to section 302B- , for chartering authority:</u></p> <p><u>(d) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the commission , pursuant to section 302B- , and may be granted state wide chartering authority. Nonpublic sectarian or religious organizations and any other charitable organization which in their federal IRS Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer under this chapter."</u></p>
<p><b>Chartering Authority Application for Eligible Entities</b></p> <p><i>Most Notable: Identifies process by which BOE will allow for multiple authorizers. Based on model law.</i></p>	<p><u>Model Law Section 5(4):</u></p> <p><b><u>"§302B-E Chartering authority application for eligible entities.</u></b> (a) <u>The board of education shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to sections 302B-D(b) through (d). By June 30 of each year, the board of education shall</u></p>

make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this chapter. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

- (1) Written notification of intent to serve as a charter authorizer in accordance with this chapter;
- (2) The applicant entity's strategic vision for chartering;
- (3) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this chapter;
- (4) A draft or preliminary outline of the request for proposals that the applicant entity would, if approved as a charter authorizer, issue to solicit public charter school applicants;
- (5) A draft of the performance framework that the applicant entity would, if approved as a charter authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this chapter;
- (6) A draft of the applicant entity's renewal, revocation, and non-renewal processes, consistent with section 302B-C;
- (7) A statement of assurance that the applicant entity seeks to serve as a charter authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as a charter authorizer, the entity will fully participate in any authorizer training provided or required by the State; and
- (8) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning their charter-authorizing practices, decisions, and expenditures.

(b) By June 30 of each year, the board of education shall decide whether to grant or deny chartering authority to each applicant. The board shall make its decisions on the merits of each applicant's proposal and plans.

(c) Within days of the board of education's decision, the board shall execute a renewable authorizing contract with each entity it has approved for chartering

	<p><u>authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this chapter, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect."</u></p>
<p><b>Authorizer Powers, Duties and Liabilities</b></p> <p><i>Most Notable: Clear delineation of authorizer responsibilities. Based on model law.</i></p>	<p><u>Model Law Section 5(5):</u></p> <p><b><u>"§302B-F Authorizer powers, duties, and liabilities. (a) Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:</u></b></p> <ul style="list-style-type: none"> <li><u>(1) Soliciting and evaluating charter applications;</u></li> <li><u>(2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;</u></li> <li><u>(3) Declining to approve weak or inadequate charter applications;</u></li> <li><u>(4) Negotiating and executing sound charter contracts with each approved public charter school;</u></li> <li><u>(5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and</u></li> <li><u>(6) Determining whether each charter contract merits renewal, nonrenewal, or revocation.</u></li> </ul> <p><u>(b) An authorizing entity may delegate its duties to offices, employees, and contractors.</u></p> <p><u>(c) Regulation by authorizers shall be limited to these powers and duties, and consistent with the spirit and intent of this chapter.</u></p> <p><u>(d) An authorizing entity, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school they authorize."</u></p>
<p><b>Additions to Authorizer Powers, Duties &amp; Liabilities (as result of recent structure changes made).</b></p>	<p><b>(b) An authorizer shall be the point of contact between the department and a public charter school it authorizes and shall be responsible for the administration of all applicable state and federal laws.</b></p>

<p><i>Most Notable: Establishes clear lines of authority for authorizer; specifies that authorizer will not provide technical support.</i></p>	<p>(c) An authorizer shall be responsible for and shall ensure compliance of a public charter school it authorizes with all applicable state and federal laws, including all reporting requirements.</p> <p>(d) An authorizer shall be responsible for the receipt of applicable federal funds from the department and the distribution of applicable federal funds to the public charter school it authorizes.</p> <p>(e) An authorizer shall be responsible for the receipt of per pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes.</p> <p>(g) Technical support to charter schools shall not be provided for by an authorizer.</p>
<p><b>Principles and Standards for Charter Authorizing</b></p> <p><i>Most Notable: Based on model law.</i></p>	<p>Model Law Section 5(6):</p> <p><b><u>"§302B-G Principles and Standards for charter authorizing. All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including: organizational capacity and infrastructure; soliciting and evaluating charter applications; performance contracting; ongoing public charter school oversight and evaluation; and charter renewal decision-making. Authorizers shall carry out all their duties under this chapter in a manner consistent with such nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers."</u></b></p>
<p><b>Authorizer Reporting</b></p> <p><i>Most Notable: Requires annual report from each authorizer. Based on model law.</i></p>	<p>Model Law Section 5(7):</p> <p><b><u>"§302B-H Authorizer reporting. Every authorizer shall be required to submit to the board of education and the legislature an annual report summarizing:</u></b></p> <ol style="list-style-type: none"> <li><b><u>(1) The authorizer's strategic vision for chartering and progress toward achieving that vision;</u></b></li> <li><b><u>(2) The academic and financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this chapter;</u></b></li> <li><b><u>(3) The status of the authorizer's public charter school portfolio, identifying</u></b></li> </ol>

	<p><u>all public charter schools in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;</u></p> <p>(4) <u>The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles;</u></p> <p>(5) <u>The services purchased from the authorizer by the public charter schools under its purview, including an itemized accounting of the actual costs of these services, as required in section 302B-K."</u></p>
<p><b>Conflict of Interests</b></p> <p><i>Most Notable: Based on model law.</i></p>	<p><u>Model Law Section 5(9):</u></p> <p><b>"§302B-I Conflict of interests.</b> <u>No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that entity."</u></p>
<p><b>Exclusivity of Authorizing Functions and Rights</b></p> <p><i>Most Notable: Based on model law.</i></p>	<p><u>Model Law Section 5(10):</u></p> <p><b>"§302B-I Exclusivity of authorizing functions and rights.</b> <u>No governmental or other entity, other than those expressly granted chartering authority as set forth in this chapter, may assume any charter authorizing function or duty in any form, unless expressly allowed by law."</u></p>
<p><b>Services Purchased from Authorizer</b></p> <p><i>Most Notable: Does not require purchase of services from authorizer. Based on model law.</i></p>	<p><u>Model Law Section 5(11):</u></p> <p><b>"§302B-K Services purchased from Authorizer; itemized accounting.</b> (a) <u>No public charter school shall be required to purchase services from its authorizer as a condition of charter approval or of executing a charter contract, nor may any such condition be implied.</u></p> <p>(b) <u>A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties'</u></p>

	<p><u>mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school. An authorizer may not charge more than market rates for services provided to a public charter school.</u></p> <p><u>(c) Within days after the end of each fiscal year, each authorizer shall provide to each public charter school it oversees an itemized accounting of the actual costs of services purchased by the public charter school from the authorizer. Any difference between the amount initially charged to the public charter school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in such accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by board of education whose determination shall be final."</u></p>
<p><b>Oversight of Public Charter School Authorizers</b></p> <p><i>Most Notable: Specifically tasks BOE with authorizer oversight responsibilities. Based on model law.</i></p>	<p><u>Model Law Section 5(12):</u></p> <p><b><u>"§302B-L Oversight of public charter school authorizers.</u></b> (a) <u>The board of education shall be responsible for overseeing the performance and effectiveness of all authorizers established under this chapter.</u></p> <p><u>(b) In accordance with section 302B-H, every authorizer shall be required to submit to the board of education and the legislature an annual report. The board shall, by [INSERT DATE] of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.</u></p> <p><u>(c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the board of education. In reviewing or evaluating the performance of authorizers the board shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the board finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the board, or the requirements of all authorizers under this chapter, the board shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.</u></p> <p><u>(d) If an authorizer granted chartering authority persists, after due notice from the board of education, in violating a material provision of a charter contract or its</u></p>

	<p><u>authorizing contract with the board, or fails to remedy other identified authorizing problems, the board shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.</u></p> <p><u>(e) In the event of revocation of any authorizer's chartering authority, the board of education shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term."</u></p>
<p><b>Performance Contract</b></p> <p><i>Most Notable: Replaces the Detailed Implementation Plan. Calls for annual performance targets. Based on model law.</i></p>	<p><u>Model Law Section 7(1):</u></p> <p><b><u>"§302B-M Performance framework.</u></b> (a) <u>The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorizer's evaluations of each public charter school. The performance framework shall include indicators, measures and metrics for, at a minimum:</u></p> <ul style="list-style-type: none"> <li><u>(1) Student academic proficiency;</u></li> <li><u>(2) Student academic growth;</u></li> <li><u>(3) Achievement gaps in both proficiency and growth between major student subgroups;</u></li> <li><u>(4) Attendance;</u></li> <li><u>(5) Recurrent enrollment from year to year;</u></li> <li><u>(6) Postsecondary readiness (for high schools);</u></li> <li><u>(7) Financial performance and sustainability; and</u></li> <li><u>(8) Performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.</u></li> </ul> <p><u>(b) Annual performance targets shall be set by each public charter school in conjunction with its authorizer, and shall be designed to help each school meet applicable federal, state, and authorizer expectations.</u></p> <p><u>(c) The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external</u></p>

	<p><u>evaluations of its performance, provided that the authorizer approves the quality and rigor of such school-proposed indicators, and they are consistent with the purposes of this chapter.</u></p> <p><u>(d) The performance framework shall require the disaggregation of all student performance data by major student subgroups (gender, race, poverty status, special education status, English Learner status, and gifted status).</u></p> <p><u>(e) For each public charter school it oversees, the authorizer shall be responsible for collecting, analyzing, and reporting all data from state assessments in accordance with the performance framework.</u></p> <p><u>(f) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual schools, and each school shall be held independently accountable for its performance."</u></p>
<p><b>Ongoing Oversight and Corrective Action</b></p> <p><i>Most Notable: Based on model law.</i></p>	<p><u>Model Law Section 7(2):</u></p> <p><b><u>"§302B-N Ongoing oversight and corrective actions.</u></b> (a) <u>An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to public charter schools.</u></p> <p><u>(b) Each authorizer shall annually publish and provide, as part of its annual report to the board of education and the legislature, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and section of this Act. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.</u></p> <p><u>(c) In the event that a public charter school's performance or legal compliance</u></p>

	<p><u>appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation timeframes will apply.</u></p> <p><u>(d) Every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified timeframe."</u></p>
<p><b>School Closure and Dissolution</b></p> <p><i>Most Notable: Based on model law.</i></p>	<p><u>Model Law Section 7(4):</u></p> <p><b><u>"§302B-0 School closure and dissolution.</u></b> (a) <u>Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.</u></p> <p><u>(b) In the event of a public charter school closure for any reason, the assets of the school, excluding facilities, shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the state treasury to the credit of the general fund. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.</u></p> <p><u>(c) In the event of a public charter school closure for any reason, other public charter schools shall have the right of first refusal for the closed public charter school's facilities. If no other public charter school exercises the right of first refusal, the facilities shall revert back to the department and the State."</u></p>

<p><b>Charter Transfers</b></p> <p><i>Most Notable: Based on model law.</i></p>	<p><u>Model Law Section 7(5):</u></p> <p><b>"§302-P Charter transfers.</b> <u>Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the board of education by a public charter school or its authorizer. The board shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students."</u></p>
<p><b>Annual Reporting Requirements for the BOE</b></p> <p><i>Most Notable: Requires BOE to do an annual report with comparative data and recommendations for improvement. Based on model law.</i></p>	<p><u>Model Law Section 7(6):</u></p> <p><b>"§302B-Q Annual report.</b> <u>On or before [INSERT DATE] of each year beginning in the first year after the state will have had public charter schools operating for a full school year, the board of education shall issue to the governor, the legislature, and the public at large, 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 the preceding calendar year. The annual report shall include a comparison of the performance of public charter school students with the performance of academically, ethnically, and economically comparable groups of students in non-charter public schools. In addition, the annual report shall include 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, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's public charter schools."</u></p>
<p><b>Renewals, Revocations &amp; Non-renewals</b></p> <p><i>Most Notable: Would change term to 5 years vs. current HRS at 6 years.</i></p>	<p><u>Model Law Section 7(3):</u></p> <p><b>§302B-C Renewals, revocations, and nonrenewals.</b> <u>(a) A charter contract may be renewed for successive five-year terms of duration, although an authorizer may vary the terms based on performance, demonstrated capacities, and particular circumstances of</u></p>

<p><i>Based on model law.</i></p>	<p><u>each charter school. An authorizer may grant a renewal of a charter contract with specific conditions for necessary improvements to a charter school.</u></p> <p><u>(b) No later than _____, the authorizer shall issue a charter school performance report and charter contract renewal application guidance to any charter school whose charter contract will expire the following year. The performance report shall summarize the charter school's performance record to date, based on the data required by this chapter and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school shall have _____ days to respond to the performance report and submit any corrections or clarifications for the report.</u></p> <p><u>(c) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:</u></p> <ol style="list-style-type: none"> <li><u>(1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;</u></li> <li><u>(2) Describe improvements undertaken or planned for the school; and</u></li> <li><u>(3) Detail the charter school's plans for the next charter term.</u></li> </ol> <p><u>(d) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the charter contract and be consistent with this chapter.</u></p> <p><u>(e) No later than _____, the governing board of a charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal guidance issued by the authorizer. The authorizer shall decide whether or not to renew the charter no later than _____ days after the filing of the renewal application.</u></p> <p><u>(f) In making charter renewal decisions, every authorizer shall:</u></p> <ol style="list-style-type: none"> <li><u>(1) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;</u></li> <li><u>(2) Ensure that data used in making the renewal decisions are available to the charter school and the public;</u></li> <li><u>(3) Provide a public report summarizing the evidence and basis for each decision.</u></li> </ol> <p><u>(g) A charter contract may be revoked at any time or not renewed if the</u></p>
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	<p><u>authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:</u></p> <ul style="list-style-type: none"> <li><u>(1) Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;</u></li> <li><u>(2) Fails to meet or make sufficient progress toward performance expectations set forth in the contract;</u></li> <li><u>(3) Fails to meet generally accepted standards of fiscal management; or</u></li> <li><u>(4) Substantially violates any material provision of law from which the charter school is not exempted.</u></li> </ul> <p><u>(h) An authorizer must develop revocation and non-renewal processes that:</u></p> <ul style="list-style-type: none"> <li><u>(1) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and the reasons for such possible closure;</u></li> <li><u>(2) Allow the charter holders a reasonable amount of time in which to prepare a reasonable amount of time in which to prepare a response;</u></li> <li><u>(3) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for the purpose;</u></li> <li><u>(4) Allow charter holders access to representation by counsel and to call witnesses on their behalf;</u></li> <li><u>(5) Permit the recording of such proceedings; and</u></li> <li><u>(6) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter holders.</u></li> </ul> <p><u>(i) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state the reasons for the revocation or nonrenewal.</u></p> <p><u>(j) Within days of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the board of education the action taken, and shall provide a copy of the report to the charter school at the same time the report is provided to the board. The report shall set forth the action taken and reasons for the decision and assurances as to compliance with all the requirements set forth in this chapter."</u></p>
<b>Changes to the Charter School Review Panel (CSRP)</b>	<u>Potential language from Model Law Section (5)(2) and Working Group:</u>

<p><i>Most notable: Name change to the Public Charter School Commission and significant changes to the composition of the commission being based on qualifications versus constituency based.</i></p>	<p><b><u>"§302B-A State public charter school commission; establishment; appointment.</u></b></p> <p><u>(a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be placed within the department of education for administrative purposes only. Notwithstanding section 302B-9 and any law to the contrary, the commission shall be subject to chapter 92.</u></p> <p><u>(b) The mission of the commission shall be to authorize high-quality charter public charter schools throughout the State.</u></p> <p><u>(c) The commission shall consist of nine members to be appointed by the board of education. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The board 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.</u></p> <p><u>(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:</u></p> <ol style="list-style-type: none"> <li><u>(1) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;</u></li> <li><u>(2) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member;</u></li> <li><u>(3) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such; and</u></li> <li><u>(4) Commitment to education. Each 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.</u></li> </ol> <p><u>(e) Each nominee to the commission shall ideally meet the following recommended qualifications:</u></p> <ol style="list-style-type: none"> <li><u>(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited</u></li> </ol>
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	<p>to performance contract management, and a proven ability to function productively within them; and</p> <p>(2) <u>Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding board policies.</u></p> <p>(f) <u>Five members of the commission shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the commission valid.</u></p> <p>(g) <u>Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012 shall be staggered as follows:</u></p> <p>(1) <u>Three members to serve three-year terms;</u></p> <p>(2) <u>Three members to serve two-year terms;</u></p> <p>(3) <u>Three members to serve one-year terms.</u></p> <p>(h) <u>Commission members shall receive no compensation. When commission duties require that a commission member take leave of the members duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to provide that member's duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.</u></p> <p>(i) <u>The commission shall establish operating procedures that shall include conflict of interest procedures for any member whose school of employment or governing board is before the commission.</u></p> <p>(j) <u>The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter."</u></p> <p><u>Session law language:</u></p> <p>"Notwithstanding any law to the contrary, the members of the charter school review panel serving on the day of the effective date of this Act shall serve on the state public charter school commission until the appointment of no fewer than five members</p>
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	<p>to the state public charter school commission pursuant to this Act, at which time all members of the charter school review panel shall be discharged from and the members of the state public charter school commission shall begin their service; provided that any vacancy in charter school review panel occurring between the effective date of this Act and the discharge from office of all charter school review panel members shall remain vacant until appointed to the state public charter school commission by the board of education pursuant to this Act."</p>
<p><b>Amendments to the Definition Section of Statute.</b></p> <p><i>Most notable: replacing the Detailed Implementation Plan with Application and Contract</i></p>	<p><b>"302B-1 Definitions</b> Whenever used in this chapter, unless the context otherwise requires:</p> <p><u>"Application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.</u></p> <p><u>"Authorizer" means an entity authorized under this chapter to review applications, decide whether to approve or reject charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, reauthorize, or reject charter contracts. The term may include the commission when appropriate.</u></p> <p><u>"Charter contract" means a fixed-term, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.</u></p> <p>"Charter school" or <u>"public charter school"</u> refers to those public schools holding charters to operate as charter schools under this chapter, including start-up and conversion charter schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management.</p> <p><del>["Charter school review panel" or "panel" means the panel established pursuant to section 302B-3 with the powers and duties to issue and revoke charters, approve</del></p>

	<p><del>detailed implementation plan revisions, and conduct charter school evaluations.]</del>  <u>"Commission" means the state public charter school commission established pursuant to 302B-A."</u></p> <p><del>["Detailed implementation plan" means the document that details the charter school's purpose, focus, operations, organization, finances, and accountability, and becomes the basis for a performance contract between the panel and the charter school.]</del></p> <p>"Executive director" means the executive director of the state public charter school <del>[administrative]</del> <u>commission</u>.</p> <p><del>"[Local school] Governing board" means the [autonomous governing body]</del>  <u>independent board of a public charter school [that:] that is party to the charter contract with the authorizer that:</u></p> <ol style="list-style-type: none"> <li><del>(1) [Receives the charter and is]</del> <u>Is</u> responsible for the financial, <u>organizational</u>, and academic viability of the charter school and implementation of the charter;</li> <li>(2) Possesses the independent authority to determine the organization and management of the school, the curriculum, virtual education<del>[-and compliance with applicable federal and state laws; and]</del></li> <li>(3) Has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees<del>[-]; and</del></li> <li><del>(4) Ensures compliance with applicable state and federal laws.</del></li> </ol>
<p><b>Uniform Education Reporting System</b></p> <p><i>Most Notable: Does not dictate a specific system, but rather a common output of data.</i></p>	<p><b><u>"§302B-R Uniform education reporting system.</u></b> The board of education shall establish a uniform education reporting system that shall include requirements for reporting fiscal, personnel, and student data, by means of electronic transfer of data files from charter schools to the department. All charter schools shall comply with the requirements of the uniform education reporting system by the beginning of the 2012-2013 school year."</p> <p>Recommendation: Request that HCSN facilitate communications with the Department</p>

	<p>(David Wu) to address this issue and identify what changes need to take place in both practice and policy; what needs to be placed in the contract. Have discussion as to how the financial audit is created-should be together or separate?</p> <p>Key Stakeholders to be included but not limited to: David Wu, Business Managers/Fiscal Administrators, Executive Directors; DOE CFO; DOE HR; etc.</p>
<p><b>Board as Final Arbitrator</b></p> <p><i>Most Notable: Clearly establishes BOE as final arbitrator.</i></p>	<p><b>"§302B-S Board as final arbitrator.</b> (a) <u>The board of education shall serve as the final arbitrator of any dispute between a charter school, governing board, and the department.</u></p> <p>(b) <u>A party shall not be entitled to a hearing before the board under this section until it has exhausted all available administrative remedies.</u></p> <p>(c) <u>The board shall adopt applicable rules and procedures pursuant to chapter 91 for implementing this section."</u></p>
<p>Purposed definition change as a result of appellate court interpretation</p>	<p>Recommended Change to 302B-1:  <u>"Charter school" or "public charter school" [refers to] means those public schools and their respective governing board, as defined in this section, that are holding charters to operate as charter schools under this chapter...</u></p>
<p><b>Change in Selection Process for Governing Boards</b></p> <p><i>Most Notable: Moving from constituency based composition to a focus on qualifications; selection vs. election process; sets 30% cap on employees or relatives of employees; does not allow head of school or relative may be Chair.</i></p> <p><i>In other sections, removed interim status of governing boards.</i></p>	<p><b>"302B-7 Charter school [local school] governing boards; powers and duties</b>  (a) All [local school] governing boards, with the exception of those of conversion charter schools that are managed and operated by a nonprofit organization pursuant to section 302B-6(e), shall be composed of <u>[,at a minimum, one representative from each of the following participant groups:</u></p> <ul style="list-style-type: none"> <li>(1) Principals;</li> <li>(2) Instructional staff members selected by the school instructional staff;</li> <li>(3) Support staff selected by the support staff of the school;</li> <li>(4) Parents of students attending the school selected by the parents of the school;</li> <li>(5) Student body representatives selected by the students of the school; and</li> <li>(6) The community at large.] <u>No more than thirteen members; provided that no more than thirty per cent of the members shall be employees of a school or</u></li> </ul>

	<p>relatives of employees of a school. For purposes of this subsection, "employees" shall include the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a school. In selecting members, consideration shall be given to persons who:</p> <ol style="list-style-type: none"> <li>(1) Demonstrate an understanding of best practices of non-profit governance;</li> <li>(2) Possess strong financial management, academic oversight, human resources, and fundraising experience; and</li> <li>(3) Provide the governing board with a diversity of perspective and a level of objectivity that accurately represent the interests of the charter school students and the surrounding community.</li> </ol> <p>(b) No chief executive officer, chief administrative officer, executive director, or otherwise designated head of school, or relative of chief executive officer, chief administrative officer, executive director, or otherwise designated head of a school, may serve as the chair of the [local school] governing board.</p> <p>(c) The [local school] governing board shall be the [autonomous] independent governing body of its charter school and shall have oversight over and be responsible for the financial and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The [local school] governing board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.</p> <p>(d) [Local school] Governing boards shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.</p> <p>(e) Charter schools and their [local school] governing boards shall be exempt from the requirements of chapters 91 and 92. The [local school] governing boards shall:</p> <ol style="list-style-type: none"> <li>(1) Make available the notices and agendas of public meetings:</li> </ol>
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	<p>(A) At a publicly accessible area in the [local-school] governing board's office <del>or</del> <b>and</b> the [charter school administrative] commission's office so as to be available for review during regular business hours; and</p> <p>(B) On the [local-school] governing board's <del>or</del> <b>and</b> charter school's internet website and the [charter school administrative office's] commission's internet website not less than six calendar days prior to the public meeting, unless a waiver is granted by the [executive-director] <u>chair of the commission</u> in the case of an emergency; and</p> <p>(2) Make available the minutes from public meetings on a timely basis and maintain a list of the current names and contact information of the [local-school] governing board's members and officers:</p> <p>(A) In the [local-school] governing board's office or the [charter school administrative office] commission's office so as to be available for review during regular business hours; and</p> <p>(B) On the [local-school] governing board's or charter school's internet website and the [charter school administrative office's] commission's internet website.</p> <p>(f) Charter schools and their [local-school] governing boards shall develop internal policies and procedures consistent with ethical standards of conduct, pursuant to chapter 84.</p> <p>(g) The State shall afford the [local-school] governing board of any charter school the same protections as the State affords the board."</p>
<p><b>Changes to Application Process for Start Up Charter Schools</b></p> <p><i>Most Notable: Based on NACSA recommendations to tighten application process. Would allow an applicant only one submittal per year.</i></p>	<p><b>§302B-5 Start-up charter schools; establishment.</b> (a) New start-up charter schools may be established pursuant to this section.</p> <p>(b) Any community, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to the office to form a charter school, establish an interim [local-school] governing board as its governing body, and develop [a detailed implementation plan] <u>an application</u> pursuant to subsection (d).</p> <p>(c) The start-up charter school application process and schedule shall be determined by the [panel,] <u>commission</u>, and shall provide for and include the following elements:</p> <p>(1) The submission of a letter of intent to operate a start-up charter school;</p> <p>(2) The timely transmittal of the application form and completion guidelines</p>

	<p>to the interim <del>[local school]</del> governing board;</p> <p>(3) The timely submission to the <del>[panel]</del> <u>authorizer</u> of a completed application;</p> <p>(4) The timely review of the application by the <del>[panel]</del> <u>authorizer</u> for completeness, and notification of the interim <del>[local school]</del> governing board if the application is complete <del>[or, if the application is insufficient, a written statement of the elements of the application that require completion];</del></p> <p><del>[(5)]</del> The timely resubmission of the application;</p> <p><del>[(6)]</del> (5) Upon receipt of a completed application, the convening of the <del>[panel]</del> <u>commission</u>, if applicable, by the <del>[panel]</del> <u>commission</u> chairperson to begin review of the application;</p> <p><del>[(7)]</del> The timely notification of the applicant of any revisions the panel requests as necessary for a recommendation of approval;</p> <p><del>[(8)]</del> (6) Following the submission of an application, issuance of a charter or denial of the application by the <del>[panel]</del> <u>authorizer</u> by majority vote; <del>[provided that if the panel does not approve the application and issue a charter, provisions requiring the panel to:</del></p> <p style="padding-left: 40px;">(A) Clearly identify in writing its reasons for not issuing the charter, which may be used as guidelines for an amended plan; and</p> <p style="padding-left: 40px;">(B) Allow the interim local school board to revise its plan in accordance with the panel's guidelines, and resubmit an amended plan within ten calendar days;</p> <p><del>[(9)]</del> (7) A provision for a final date on which a decision must be made, upon receipt of an amended <del>[plan;]</del> <u>application</u>; and</p> <p><del>[(10)]</del> (8) A provision that no start-up charter school may begin operation before obtaining <del>[panel]</del> <u>authorizer</u> approval of its <del>[charter.]</del> <u>charter and charter contract</u>.</p> <p>(d) An application to become a start-up charter school shall <del>[include a detailed implementation plan that meets]</del> <u>meet</u> the requirements of this subsection and section 302B-9. The <del>[plan]</del> <u>application</u> shall include the following:</p> <p style="padding-left: 40px;">(1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;</p> <p style="padding-left: 40px;">(2) A plan for identifying, recruiting, and retaining highly-qualified</p>
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	<p>instructional faculty;</p> <p>(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;</p> <p>(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;</p> <p>(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:</p> <p>(A) Recognizes the interests of the general public;</p> <p>(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;</p> <p>(C) Includes a system of faculty and staff accountability that holds faculty and staff both individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and</p> <p>(D) Provides for program audits and annual financial audits;</p> <p>(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of <del>[local school]</del> governing board members;</p> <p>(7) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and</p> <p>(8) A facilities plan.</p> <p><u>(e) Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the application to the authorizer during a given cycle; provided that an applicant shall have the right to appeal the authorizer's denial of its application pursuant to section 302B-3.5."</u></p>
<p><b>Changes to Application Process for Conversion Charter Schools</b></p> <p><i>Most Notable: Based on NACSA recommendations to tighten</i></p>	<p><b>"§302B-6 Conversion charter schools; establishment.</b> (a) A conversion charter school may be established pursuant to this section.</p> <p>(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to the office to convert a department school to a charter school, establish an interim</p>

<p>application process. Would allow an applicant only one submittal per year.</p>	<p>[local school] governing board as its governing body, and develop <del>a detailed implementation plan</del> an application pursuant to subsection (d).</p> <p>(c) The conversion charter school application process and schedule shall be determined by the <del>[panel]</del> commission, and shall provide for and include the following elements:</p> <ol style="list-style-type: none"> <li>(1) The submission of a letter of intent to convert to a charter school;</li> <li>(2) The timely transmittal of the application form and completion guidelines to the interim <del>[local school]</del> governing board;</li> <li>(3) The timely submission to the <del>[panel]</del> authorizer of a completed application; provided that the application shall include certification and documentation that the application <del>[and the proposed detailed implementation plan]</del> was approved by a majority of the votes cast by existing administrative, support, teaching personnel, and parents of students at the proposed conversion charter school;</li> <li>(4) The timely review of the application by the <del>[panel]</del> authorizer for completeness, and notification of the interim <del>[local school]</del> governing board if the application is complete<del>[ or, if the application is insufficient, a written statement of the elements of the application that require completion];</del></li> <li><del>[(5) The timely resubmission of the application;]</del></li> <li><del>[(6)]</del> (5) Upon receipt of a completed application, the convening of the <del>[panel]</del> commission, if applicable, by the <del>[panel]</del> commission chairperson to begin review of the application;</li> <li><del>[(7) The timely notification of the applicant of any revisions the panel may request as necessary for a recommendation of approval;]</del></li> <li><del>[(8)]</del> (6) Following the submission of an application, issuance of a charter or denial of the application by the <del>[panel by majority vote;]</del> authorizer: <del>[provided that if the panel does not approve the application and issue a charter, provisions requiring the panel to:</del></li> <li style="padding-left: 40px;">(A) Clearly identify in writing its reasons for not issuing the charter, which may be used as guidelines for an amended plan; and</li> <li style="padding-left: 40px;">(B) Allow the interim local school board to revise its plan in accordance with the panel's guidelines, and resubmit an amended plan within ten calendar days;</li> <li><del>[(9)]</del> (7) A provision for a final date on which a decision must be made upon</li> </ol>
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	<p>receipt of an amended <del>[plan;]</del> application; and</p> <p><del>[(10)]</del> (8) A provision that no conversion charter school may begin operation before obtaining <del>[panel]</del> authorizer approval of its <del>[charter.]</del> <u>charter and charter contract.</u></p> <p>(d) An application to become a conversion charter school shall <del>[include a detailed implementation plan that meets]</del> <u>meet</u> the requirements of this subsection and section 302B-9. The <del>[plan]</del> <u>application</u> shall include the following:</p> <p>(1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;</p> <p>(2) A plan for identifying, recruiting, and retaining highly-qualified instructional faculty;</p> <p>(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;</p> <p>(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;</p> <p>(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:</p> <p>(A) Recognizes the interests of the general public;</p> <p>(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;</p> <p>(C) Includes a system of faculty and staff accountability that holds faculty and staff both individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and</p> <p>(D) Provides for program audits and annual financial audits;</p> <p>(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of <del>[local school]</del> <u>governing</u> board members;</p> <p>(7) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and</p> <p>(8) A facilities plan.</p>
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	<p>(e) A nonprofit organization may submit a letter of intent to the office to convert a department school to a conversion charter school, operate and manage the school, establish a <del>[local school]</del> <u>governing</u> board as its governing body, and develop <del>[a detailed implementation plan]</del> <u>an application</u> pursuant to subsection (d); provided that:</p> <p>(1) As the governing body of the conversion charter school, the <del>[local school]</del> <u>governing</u> board shall be composed of the board of directors of the nonprofit organization and not representatives of the participant groups specified in section 302B-7. The nonprofit organization may also appoint advisory groups of community representatives for each school managed by the nonprofit organization; provided that these groups shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;</p> <p>(2) The <del>[detailed implementation plan]</del> <u>application</u> for each conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the nonprofit organization, and shall be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of the students of the proposed conversion charter school;</p> <p>(3) The board of directors of the nonprofit organization, as the governing body for the conversion charter school that it operates and manages, shall have the same protections that are afforded to the board in its role as the conversion charter school governing body;</p> <p>(4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that the nonprofit organization makes a minimum annual contribution of \$1 per pupil toward the operation of a conversion charter school for every \$4 per pupil allocated by the office for the operation of the conversion charter school; provided that in no event shall the nonprofit organization be required to contribute more than the total required contribution per pupil per year. As used in this section, "total required contribution" means:</p> <p>(A) \$1,500 for school years 2006-2007 through 2010-2011;</p> <p>(B) \$1,650 for school years 2011-2012 through 2015-2016; and</p> <p>(C) \$1,815 for school years 2016-2017 through 2020-2021; and</p> <p>(5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the</p>
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	<p>charter school, the charter school may submit <del>[an]</del> <u>a revised application</u> <del>[with a revised implementation plan]</del> to the <del>[panel]</del> <u>authorizer</u> to continue as a conversion school without the participation of the nonprofit organization.</p> <p>(f) Any nonprofit organization that seeks to manage or operate a conversion charter school as provided in subsection (e) shall comply with the following at the time of application:</p> <ol style="list-style-type: none"> <li>(1) Have 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;</li> <li>(2) 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;</li> <li>(3) Comply with all applicable federal, state, and county laws, including licensure or accreditation, as applicable; and</li> <li>(4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.</li> </ol> <p>(g) Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to the office to form a conversion charter school pursuant to this section.</p> <p>(h) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.</p> <p>(i) <u>Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the application to the authorizer for a period of one year, except as provided in subsection (e); provided that an applicant shall have the right to appeal the authorizer's denial of its application pursuant to section 302B-3.5."</u></p>
<p><b>Recommendations for Authorizer Staff</b></p> <p><i>Most Notable: Recommends separate line item funding vs. 2%.</i></p>	<p>Recommend line item funding (not 2%) in budget with delineation of FTE's as suggested by NACSA:</p> <p><b>Executive Director</b> implements state charter school policies as established in law and by the Commission. The Executive Director:</p>

<p><i>Establishes FTE's based on NACSA recommendations.</i></p> <p><u>Follow Up Work to Include in Report:</u></p> <p>-Tammi: research titles as it relates to Director. Perhaps similar to HTSB.</p> <p>-Make sure there is no overlap of positions and doubling of costs. Perhaps build in slight overlap for transition (ie. ED).</p> <p>-Ask NACSA if possible to merge accountability and compliance directors?</p>	<ul style="list-style-type: none"> <li>• Serves as the primary contact to the Commission,</li> <li>• Ensures the efficient and effective operation of all Commission functions,</li> <li>• Manages Commission staff, including hiring, evaluating and compensating staff, and</li> <li>• Allocates and manages Commission resources.</li> </ul> <p><b>Applications Director</b> designs and manages the processes for new charter school applications and existing charter school renewals. The Applications Director:</p> <ul style="list-style-type: none"> <li>• Facilitates outreach and communication to potential charter school applicants that enables applicants to understand the application process and criteria,</li> <li>• Produces the annual application documents, and</li> <li>• Manages the evaluation of applications and produces recommendations for the Commission.</li> </ul> <p><b>Accountability Director</b> manages the processes for executing, monitoring, renewing and revoking a school's charter after the application is approved by the Commission. The Accountability Director:</p> <ul style="list-style-type: none"> <li>• Manages the process for executing each school's legal contract and acts as the custodian of the office's legal records,</li> <li>• Manages the process for notifying schools of any failures to meet the terms of their charter and the process for intervening at or revoking a charter, and</li> <li>• Manages the process for evaluating charter school renewals and produces recommendations for the Commission.</li> </ul> <p><b>Academic Performance Director</b> establishes and manages systems for defining, collecting and evaluating charter schools' academic performance. The Academic Performance Director:</p> <ul style="list-style-type: none"> <li>• Works with the Commission and schools to establish objective, measurable and multiple academic performance standards that apply to all charter schools;</li> <li>• Stays current on all applicable state and federal public school accountability laws and ensures that all charter schools are participating appropriately in the state's standardized testing system,</li> <li>• Evaluates each school's academic performance data in comparison to the established performance standards, and</li> </ul>
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	<ul style="list-style-type: none"> <li>• Provides an annual report on each school's performance to each school, the Commission and the public.</li> </ul> <p><b>Compliance Director</b> monitors each charter school's compliance with applicable laws and programmatic requirements. The Compliance Director:</p> <ul style="list-style-type: none"> <li>• Monitors the start-up of new schools and assess each school's readiness to open, and</li> <li>• Establishes and manages systems for collecting, evaluating and acting upon data on school's compliance with a wide variety of laws and regulations.</li> </ul> <p><b>Finance Director</b> evaluates a variety of documents to continuously assess the financial viability of charter schools. The Finance Director:</p> <ul style="list-style-type: none"> <li>• Reviews schools' annual budgets at the beginning of each year to determine if the budget presents a viable plan for school operations that is based on realistic income and expense assumptions,</li> <li>• Reviews quarterly or mid-year school financial reports to determine each school managing its finances in accordance with the annual budget,</li> <li>• Reviews each school's annual audit to determine if appropriate financial management systems are in place and if the school is a financially viable, and</li> <li>• Manages disbursement of funds to charter schools.</li> </ul> <p><b>Administration Director</b> brokers interactions between charter schools and divisions and programs within state departments. The most significant of these are likely to be with the Department of Education and special education and Title programs. The Administration Director:</p> <ul style="list-style-type: none"> <li>• Works with charter schools and DOE staff to establish appropriate reporting systems from charter schools to the DOE and appropriate services and funding from the DOE to charter schools, and</li> <li>• Because a good Administration Director must have skills to listen, evaluate and act diplomatically in a wide range of situations, the Administration Director should also be skilled at and responsible for managing parent questions and complaints about charter schools.</li> </ul> <p>Four additional administrative support staff positions.</p>
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<p><b>Sections of 302B to keep “as is” with language changes as needed for consistency purposes</b></p> <p><i>Most Notable: Recommends removal of caps; sunset of CSAO to allow for transition to authorizer staff.</i></p> <p><b><i>*italicized sections indicate possible modifications or deletions for task force to consider.</i></b></p>	<p>302B-1: Retain definitions that were not amended or specifically deleted or eliminated.</p> <p>302B-2 Existing Charter Schools <b><i>(can this be eliminated or still required for legal purposes?)</i></b></p> <p>302B-3.6 Occupancy and use of facilities or public schools</p> <p>302B-4 Encouraging the growth of successful charter schools <b><i>(recommend caps be removed as a result of tightening of application process and instituting performance contracts)</i></b></p> <p>302B-8 Charter School Administrative Office <b><i>(will need to phase out as part of 12 month implementation and transition period and redistribute duties to authorizer staff. May want to consider sunset of section with recommendation for Implementation &amp; Transition Coordinator to develop new statutory language for authorizer staff as appropriate).</i></b></p> <p>302B-9 Exemption from state laws.</p> <p>302B-10 Civil service status; employee rights</p> <p>302B-11 Administration of workers’ compensation</p> <p>302B-12 Funding and financing. <b><i>(Note: Section indicating that the department shall provide notification of all state-level federal grant proposals and awards shall now go to the authorizer. Likewise sections relating to per-pupil funding and enrollment now the responsibility of authorizer.)</i></b></p> <p>302B-13 Weighted student formula</p> <p>302B-14 Accountability; Probationary Status. <b><i>(Note: May want to consider inserting the following section from the current statute into the proposed model law. (g) If there is an immediate concern for student or employee health or safety at a charter</i></b></p>
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	<p><i>school, in consultation with the Commission, may adopt an interim restructuring plan that may include the appointment of an interim governing board, an interim governing board chairperson, or a principal to temporarily assume operations of the school; provided that if possible without further jeopardizing the health or safety of students and employees, the charter school's stakeholders and community are first given the opportunity to elect a new local school board which shall appoint a new interim principal. The board shall have the authority to direct the commission to take appropriate action to immediately address serious health and safety issues that may exist at a charter school in order to ensure the health and safety of students and employees and mitigate significant liability to the State.)</i></p> <p>302B-15 Responsibilities of department of education; special education services</p> <p><i>*Clarify with DOE about 302B-15(a). Specifically in regards to technical assistance.</i></p> <p>302B-16 Sports</p>
<p><b>CSAO Distribution of Responsibilities</b></p> <p><i>Most Notable: Gives schools more autonomy and flexibility by designating functions to the governing boards or they may contract to 3<sup>rd</sup> party entities.</i></p>	<p>See attached sheet developed with help from NGA.</p>
<p><b>Implementation and Transition Efforts</b></p> <p><i>Most Notable: Responsibility of the BOE to award and oversee contract.</i></p>	<p>(Draft coordinator scope of work as developed with help from NGA)</p> <p>The Central Responsibility of the Implementation and Transition Coordinator shall be to facilitate implementation of the recommendations of the Hawaii Charter School Governance, Accountability and Authority Task Force.</p> <p>The coordinator will be contracted by the BOE for a period of approximately 12 months.</p>

	<ol style="list-style-type: none"> <li>1. <u>Required skills, knowledge and experience</u> <ol style="list-style-type: none"> <li>a. Knowledge of “best practices” in educational governance and accountability, with a strong emphasis on charter schools.</li> <li>b. Extensive experience in public policy and administration, specifically working with state policy-makers and community stakeholders.</li> <li>c. Strong demonstrated written and oral communication skills.</li> </ol> </li> <li>2. <u>Scope of Work:</u> <ol style="list-style-type: none"> <li>a. Develop a comprehensive plan for implementation of the Task Force recommendations, including but not limited to the development of a communications plan, a plan for engaging key stakeholders, and a strategy for monitoring and evaluating implementation for review by BOE.</li> <li>b. Draft policies and procedures, including but not limited to administrative rules, required for implementation of recommendations made by the Task Force and adopted into law.</li> <li>c. Assist in the development of position description and recruitment for authorizer staff as recommended by NACSA, as well as commission members.</li> <li>d. Prepare communications and coordinate collaboration between schools, governing boards, the authorizer, the state board of education, the department of education, state departments and the legislature.</li> </ol> </li> </ol> <p>*Would also recommend that as part of implementation and transition efforts, an inventory of all FTE’s within the DOE dealing with charter schools be identified, and recommendations made for re-purposing or re-directing staffing based upon statutory and structural changes being made.</p>
<p><b>Reauthorizations/Authorizations</b></p> <p><i>Most Notable: Recommends pushing back reauthorization for a year until a performance contract framework in place.</i></p>	<p><b>-Reauthorizations:</b> Recommend that the task force adopt NACSA recommendations to push back reauthorization for a year until performance contracts in place.</p> <p><b>-Authorizations:</b> Recommend that December 2011 applicants are well aware that the DIP is their charter application and that at the end of the process should they be authorized, there will be an official performance contract between CSRP and their LSB.</p>

<p><b>Discussion of Distribution of Federal Funds</b></p> <p><i>Most Notable: Requires annual conversation regarding distribution and access to federal funds. If concerns come up prior to annual report, can always go to BOE .</i></p>	<p>Include in proposed 302B-H Authorizer reporting &amp; proposed 302B-Q Annual report sections a requirement to discuss access to and dissemination of federal funds to charter schools and any concerns or recommended changes to consider.</p> <p>-Annual reports shall include all pots of funds that were given to the authorizer with justification and breakdown for the funds given.</p>
<p><b>Changes to Organizational Chart</b></p> <p><i>Most Notable: Removal of the Charter School Liaison Office and Direct Interaction Between DOE (SEA) with Authorizer</i></p>	<p>See Attached</p>

# Appendix N

CSAO Duties to New "Home"

Category	CSAO Task	New "Home"	NGA Notes
<i>Department of Education - Administrative</i>	Negotiate and prepare contracts between charters and the DOE for centralized services	Governing Boards	Schools must work with staff at the DOE or hire a 3rd party
	Negotiate and prepare contracts between the CSAO and DOE	N/A	No longer needed
	Act as the Risk Management Coordinator for charter schools	Governing Boards	Schools may want to set this up as an in-school position, work together to hire 1 coordinator for multiple schools, or work with a 3rd party.
	Liaison with the AG, Comptroller, Governor, and counties for use of facilities	Governing Boards	Schools must work with staff at the DOE or hire a 3rd party
	Host meetings and trainings for charter school administrators, business managers, registrars, LSB members, and others.	3rd parties	We strongly recommend that the authorizer NOT provide TA.
<i>Department of Education - Business and Finance</i>	Negotiate and prepare contracts between the charter schools and other agencies for financial or personnel services	Governing Boards	Schools must work with staff at the DOE or hire a 3rd party
	Allocate and distribute state appropriations to charter schools	Authorizer	The authorizer will receive funds from the DOE for distribution to schools.
	1. CIP Requests, including each school's need-based priority projects; 2. All Means of Financing Budget Request.	Schools Prepare; Authorizer compiles and submits	
	Report projected and official charter school enrollments to the Commission	Governing Boards	School governing boards should be reporting this data to meet federal reporting requirements.
	Report projected and official charter school enrollments to the BOE, Legislature	Authorizer	
	Process and disseminate DOE payroll data	Governing Boards	
	Collect and distribute DOE payroll reimbursements	Governing Boards	
<i>Department of Education Duties and Tasks - Collective Bargaining</i>	Negotiate collective bargaining supplemental agreements	Governing Boards	Governing boards retain the autonomy to work with, if needed, a 3rd party. This would not be an appropriate role for the DOE or authorizer

CSAO Duties to New "Home"

Category	CSAO Task	New "Home"	NGA Notes
<i>Department of Education Duties and Tasks - Communications</i>	Answer routine questions about charter schools and the charter school system from the public, media, government agencies, legislature, charter school community, and other interested parties	DOE/Authorizer/Schools	It makes sense for the Department of Education website to include information on the state's charter system, state data on charters, official forms/applications, etc... 3rd parties, like the charter school network will remain in place. They are also good resources.
	Keep charter schools, LSBs, Commission, DOE, BOE, legislature, Governor, media, and other parties up to date on CSAO activities	N/A	No longer needed
	Maintain a CSAO website for public information, posting of LSB and CSRP agendas and minutes, posting of LSB members and contact info, and other charter school info	N/A	No longer needed. Website should
	Represent charter schools to the BOE, governor, and legislature	Governing Boards	3rd parties, such as the charter network, would be appropriate actors for lobbying
	Establish a dispute resolution and mediation process	Parents, students & teachers: Governing Boards; Problem w/Governing Boards: Authorizer; Problem w/Authorizer: BOE	
	Provide letters of support to individuals and organizations seeking to conduct studies in charter schools and have previously been given permission from school administrators	N/A	
<i>Department of Education Duties and Tasks - Human Resources</i>	Oversee the Ceridian payroll system (used by 27 charter schools, the CSAO and the CSRP)	Governing Board	

CSAO Duties to New "Home"

Category	CSAO Task	New "Home"	NGA Notes
	Process benefit payments and reports for charter school Ceridian employees	Governing Boards	
	Liaison between the charter schools and ERS and EUTF regarding health and retirements benefits	Governing Boards	
	Forward health enrollment and state retirement forms	Governing Boards	
	Answer questions regarding additional individual retirement and flex plans	ERS/EUTF	
	Answer questions regarding temporary disability	EUTF	
	Send benefit deduction reports to charter schools under Ceridian for reconciliation purposes	Governing Boards	
	Reconcile payroll discrepancies with ERS for charter school employees under Ceridian	Governing Boards	
	Verify personnel information for ERS for former charter school employees under Ceridian	Governing Boards	
	Serve as the central point of contact for EUTF	Governing Boards	
<i>Department of Education Duties and Tasks - Information Management</i>	Provide technical support to all charter schools on school level technology planning, school level SIS support	Governing Boards	Charter schools retain autonomy to determine their technology and TA needs. However, all charters with federal funds must report data back to the state SIS.
	Disseminates and consolidates data for charter reporting.	Governing Boards	Schools should provide the necessary data to the authorizer.
<i>Department of Education Duties and Tasks - Information Technology</i>	Provide TA supports to all charter schools	Governing Boards	Charter schools have the autonomy to determine their technology and TA needs. The 3rd parties could provide TA options. We recommend that the authorizer not provide TA.
	Provide school level technology recs and support	Governing Boards	Charter schools have the autonomy to determine their technology and TA needs. We recommend that the authorizer not provide TA.

CSAO Duties to New "Home"

Category	CSAO Task	New "Home"	NGA Notes
	Provide CSAO office support	N/A	No longer needed
	Technology budgeting	Governing Boards	LSBs should be able to handle their own budgeting. They do have the autonomy to work with a 3rd party
	CSAO servers	N/A	No longer needed
<i>Department of Education Duties and Tasks - Legislative</i>	Provide advocacy for the development, growth, progress, and success of charter schools and the charter school system	Governing Boards/3rd parties	
<i>Authorizer Duties and Tasks - Administrative</i>	provide independent analysis and recommendations on charter school issues	Authorizer via Annual Report	
	Provide assistance and support for the development, growth, progress, and success of charter schools and the system	3rd parties	Charter schools have the autonomy to determine their technology and TA needs. We recommend that the authorizer not provide TA.
	Provide guidance and assistance to charter applicants and charter schools to enhance the competency and accuracy of CSRP for review	N/A	
	Assist the CSRP to coordinate with charter schools in CSRP investigations and evaluations	N/A	
<i>Authorizer Duties and Tasks - Business and Finance</i>	Review charter school budgets and report any concerns to CSRP	N/A	
	Monitor the financials of charter schools that the CSRP has concerns with	N/A	
	Provide CSRP back-office functions	N/A	
<i>Authorizer Duties and Functions - Communications</i>	Report to the CSRP every panel meeting on matters that pertain to CSRP	N/A	
	Assist charter applicants and schools in coordinating their interactions with the Commission	Authorizer staff	Schools should not need an intermediary to communicate with the staff of the authorizer

CSAO Duties to New "Home"

Category	CSAO Task	New "Home"	NGA Notes
	Receive complaints from charter school parents, employees, community members, and others and direct them through the complaint process	Authorizer	Should no longer need if the authorizer is fully staffed
Federal Programs	Technical Assistance	3rd Parties	Not to be provided by authorizer
	Develop and disseminate procedures for use of federal funds	DOE as SEA via authorizer	
	Collection of required data	Schools provide to authorizer, who then provides to DOE	
	Monitors schools for compliance	Authorizer via Performance Contract. DOE as SEA to identify schools for corrective action.	
	Implement School Improvement/Corrective Action	Authorizer via performance contract; BOE monitors via annual report.	
	Provide information on all applicable federal grant applications that charter schools may be eligible for.	DOE to Authorizer	

**\*Note: All References to Governing Boards Includes Possibility for 3rd Party Entities**

# Appendix O

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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1       SECTION 1. The legislature finds that the charter school  
2 governance, accountability, and authority task force ("task  
3 force") was established pursuant to section 7 of Act 130,  
4 Session Laws of Hawaii 2011 in response to questions and  
5 concerns raised by policy makers and advocates alike about the  
6 integrity of Hawaii's charter school governance structure and  
7 the overall strength of Hawaii's laws in establishing clear  
8 lines of authority that ensured accountability of the charter  
9 school system.

10       Specifically, the goal of the task force was to provide  
11 clarity to the relationships, responsibilities, and lines of  
12 accountability and authority among stakeholders of Hawaii's  
13 charter school system, including the board of education,  
14 department of education, charter school administrative office,  
15 charter school review panel, and local school boards.

16       In conducting its work, the task force looked at various  
17 sections of the charter school model law put forth by the  
18 National Alliance for Public Charter Schools and used the model



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1 law as a guide in compiling its recommendations to the  
2 legislature.

3 The task force was also fortunate to have the assistance  
4 and input of the National Association of Charter School  
5 Authorizers and the National Governors Association.

6 After in-depth examination and discussion, the task force  
7 concluded its work and issued its report and recommendations to  
8 the legislature.

9 The purpose of this Act is to adopt the recommendations of  
10 the task force by repealing chapter 302B, Hawaii Revised  
11 Statutes, and establishing a new charter school law that creates  
12 a solid governance structure for Hawaii's charter school system  
13 with clear lines of authority and accountability that will  
14 foster improved student outcomes.

15 SECTION 2. The Hawaii Revised Statutes is amended by  
16 adding a new chapter to be appropriately designated and to read  
17 as follows:

18 **"CHAPTER**

19 **PUBLIC CHARTER SCHOOLS**

20 **§ -1 Definitions.** Whenever used in this chapter, unless  
21 the context otherwise requires:



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1 "Application" means a proposal from an applicant to an  
2 authorizer to enter into a charter contract whereby the proposed  
3 school obtains public charter school status.

4 "Authorizer" means an entity authorized under this chapter  
5 to review applications, decide whether to approve or reject  
6 charter applications, enter into charter contracts with  
7 applicants, oversee public charter schools, and decide whether  
8 to authorize, reauthorize, or reject charter contracts. The  
9 term may include the commission when appropriate.

10 "Charter contract" means a fixed-term, renewable contract  
11 between a public charter school and an authorizer that outlines  
12 the roles, powers, responsibilities, and performance  
13 expectations for each party to the contract.

14 "Charter school" or "public charter school" refers to those  
15 public schools and their respective governing boards, as defined  
16 in this section, that are holding charters to operate as charter  
17 schools under this chapter, including start-up and conversion  
18 charter schools, and that have the flexibility and independent  
19 authority to implement alternative frameworks with regard to  
20 curriculum, facilities management, instructional approach,  
21 virtual education, length of the school day, week, or year, and  
22 personnel management.



"Commission" means the state public charter school commission established pursuant to -3.

"Conversion charter school" means:

(1) Any existing department school that converts to a charter school and is managed and operated in accordance with section -14;

(2) Any existing department school that converts to a charter school and is managed and operated by a nonprofit organization in accordance with section -14; or

(3) A newly created school consisting of programs or sections of existing public school populations that are funded and governed independently and may include part of a separate Hawaiian language immersion program using existing public school facilities.

"Department" means the department of education.

"Executive director" means the executive director of the state public charter school commission.

"Governing board" means the independent board of a public charter school that is party to the charter contract with the authorizer that:



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- (1) Is responsible for the financial, organizational, and academic viability of the charter school and implementation of the charter;
- (2) Possesses the independent authority to determine the organization and management of the school, the curriculum, and virtual education;
- (3) Has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees; and
- (4) Ensures compliance with applicable state and federal laws.

"Nonprofit organization" means a private, nonprofit, tax-exempt entity that:

- (1) Is recognized as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and
- (2) Is domiciled in this State.

"Organizational viability" means that a charter school:

- (1) Has been duly constituted in accordance with its charter;
- (2) Has a governing board established in accordance with law and the charter school's charter;



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- 1 (3) Employs sufficient faculty and staff to provide the
- 2 necessary educational program and support services to
- 3 operate the facility in accordance with its charter;
- 4 (4) Maintains accurate and comprehensive records regarding
- 5 students and employees as determined by its
- 6 authorizer;
- 7 (5) Meets appropriate standards of student achievement;
- 8 (6) Cooperates with board, commission, and authorizer
- 9 requirements in conducting its functions;
- 10 (7) Complies with applicable federal, state, and county
- 11 laws and requirements;
- 12 (8) In accordance with authorizer guidelines and
- 13 procedures, is financially sound and fiscally
- 14 responsible in its use of public funds, maintains
- 15 accurate and comprehensive financial records, operates
- 16 in accordance with generally accepted accounting
- 17 practices, and maintains a sound financial plan;
- 18 (9) Operates within the scope of its charter and fulfills
- 19 obligations and commitments of its charter;
- 20 (10) Complies with all health and safety laws and
- 21 requirements; and



1 (11) Complies with all commission and authorizer

2 directives, policies, and procedures.

3 "Start-up charter school" means a new school established  
4 under section -13.

5 **§ -2 Existing charter schools.** (a) Any charter school  
6 holding a charter to operate under part IV, subpart D, of  
7 chapter 302A, as that subpart existed before July 11, 2006,  
8 shall be considered a charter school for the purposes of this  
9 chapter.

10 (b) Any charter school holding a charter to operate under  
11 chapter 302B as it existed before July 1, 2013, shall be  
12 considered a charter school for the purposes of this chapter.

13 **§ -3 State public charter school commission;**  
14 **establishment; appointment.** (a) There is established the state  
15 public charter school commission with statewide chartering  
16 jurisdiction and authority. The commission shall be placed  
17 within the department for administrative purposes only.  
18 Notwithstanding section -25 and any law to the contrary, the  
19 commission shall be subject to chapter 92.

20 (b) The mission of the commission shall be to authorize  
21 high-quality public charter schools throughout the State.



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(c) The commission shall consist of nine members to be appointed by the board of education. The board 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 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.

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

- (1) Commitment to education. Each 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;



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(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

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

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

(e) Each nominee to the commission shall ideally meet the following recommended qualifications:

(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and

(2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with



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1 the ability to articulate, understand, and help shape  
2 consensus surrounding commission policies.

3 (f) Five members of the commission shall constitute a  
4 quorum to conduct business and a concurrence of at least five  
5 members shall be necessary to make any action of the commission  
6 valid.

7 (g) Commission members shall serve not more than three  
8 consecutive three-year terms, with each term beginning on  
9 July 1; provided that the initial terms that commence after  
10 June 30, 2012, shall be staggered as follows:

11 (1) Three members, including the chairperson, to serve  
12 three-year terms;

13 (2) Three members to serve two-year terms; and

14 (3) Three members to serve one-year terms.

15 (h) Commission members shall receive no compensation.  
16 When commission duties require that a commission member take  
17 leave of the member's duties as a state employee, the  
18 appropriate state department shall allow the commission member  
19 to be placed on administrative leave with pay and shall provide  
20 substitutes, when necessary, to fulfill that member's duties.  
21 Members shall be reimbursed for necessary travel expenses  
22 incurred in the conduct of official commission business.



(i) The commission shall establish operating procedures that shall include conflict of interest procedures for any member whose school of employment or governing board is before the commission.

(j) The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter.

**§ -4 Chartering authority application for eligible entities.** (a) The board of education shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to this section. Following the adoption of administrative rules, by June 30 of each year, the board shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this chapter. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

(1) Written notification of intent to serve as a charter authorizer in accordance with this chapter;

(2) The applicant entity's strategic vision for chartering;



- 1 (3) A plan to support the vision presented, including  
2 explanation and evidence of the applicant entity's  
3 budget and personnel capacity and commitment to  
4 execute the responsibilities of quality charter  
5 authorizing, in accordance with this chapter;
- 6 (4) A draft or preliminary outline of the request for  
7 proposals that the applicant entity, if approved as a  
8 charter authorizer, would issue to solicit public  
9 charter school applicants;
- 10 (5) A draft of the performance framework that the  
11 applicant entity, if approved as a charter authorizer,  
12 would use to guide the establishment of a charter  
13 contract and for ongoing oversight and evaluation of  
14 public charter schools, consistent with the  
15 requirements of this chapter;
- 16 (6) A draft of the applicant entity's renewal, revocation,  
17 and non-renewal processes, consistent with section  
18 -18;
- 19 (7) A statement of assurance that the applicant entity  
20 seeks to serve as a charter authorizer in fulfillment  
21 of the expectations, spirit, and intent of this  
22 chapter, and that if approved as a charter authorizer,



1 the entity will fully participate in any authorizer  
2 training provided or required by the State; and

3 (8) A statement of assurance that the applicant will  
4 ensure public accountability and transparency in all  
5 matters concerning its charter-authorizing practices,  
6 decisions, and expenditures.

7 (b) By June 30 of each year, the board shall decide  
8 whether to grant or deny chartering authority to each applicant.  
9 The board shall make its decisions on the merits of each  
10 applicant's proposal and plans.

11 (c) Within days of the board's decision, the board  
12 shall execute a renewable authorizing contract with each entity  
13 it has approved for chartering authority. The initial term of  
14 each authorizing contract shall be six years. The authorizing  
15 contract shall specify each approved entity's agreement to serve  
16 as a charter authorizer in accordance with the expectations of  
17 this chapter, and shall specify additional performance terms  
18 based on the applicant's proposal and plan for chartering. No  
19 approved entity shall commence charter authorizing without an  
20 authorizing contract in effect.

21 (d) This section shall not apply to the commission.



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**§ -5 Authorizer powers, duties, and liabilities. (a)**

Authorizers are responsible for executing the following essential powers and duties:

- (1) Soliciting and evaluating charter applications;
- (2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- (3) Declining to approve weak or inadequate charter applications;
- (4) Negotiating and executing sound charter contracts with each approved public charter school;
- (5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and
- (6) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

**(b) An authorizer shall:**

- (1) Act as the point of contact between the department and a public charter school it authorizes and be responsible for the administration of all applicable state and federal laws;



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(2) Be responsible for and ensure compliance of a charter school it authorizes with all applicable state and federal laws, including reporting requirements;

(3) Be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes; and

(4) Be responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes.

(c) An authorizing entity may delegate its duties to officers, employees, and contractors.

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

(e) An authorizing entity, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school authorized by that entity.

(f) Technical support to charter schools shall not be provided by an authorizer.



**§ -6 Principles and standards for charter authorizing.**

All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including:

- (1) Organizational capacity and infrastructure;
- (2) Soliciting and evaluating charter applications;
- (3) Performance contracting;
- (4) Ongoing public charter school oversight and evaluation; and
- (5) Charter renewal decision-making.

Authorizers shall carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.

**§ -7 Authorizer reporting.** Every authorizer shall be required to submit to the board of education and the legislature an annual report summarizing:

- (1) The authorizer's strategic vision for chartering and progress toward achieving that vision;



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- 1       (2) The academic and financial performance of all  
2       operating public charter schools overseen by the  
3       authorizer, according to the performance expectations  
4       for public charter schools set forth in this chapter;  
5       (3) The status of the authorizer's public charter school  
6       portfolio, identifying all public charter schools in  
7       each of the following categories: approved (but not  
8       yet open), not approved, operating, renewed,  
9       transferred, revoked, not renewed, voluntarily closed,  
10      or never opened;  
11      (4) The authorizing functions provided by the authorizer  
12      to the public charter schools under its purview,  
13      including the authorizer's operating costs and  
14      expenses detailed in annual audited financial  
15      statements that conform with generally accepted  
16      accounting principles;  
17      (5) The services purchased from the authorizer by the  
18      public charter schools under its purview, including an  
19      itemized accounting of the actual costs of these  
20      services, as required in section     -10;



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(6) A line-item breakdown of the federal funds received by the department and distributed by the authorizer to public charter schools under its control; and

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

**§ -8 Conflict of interests.** No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that authorizer.

**§ -9 Exclusivity of authorizing functions and rights.** No governmental or other entity, other than those expressly granted chartering authority as set forth in this chapter, may assume any charter authorizing function or duty in any form, unless expressly allowed by law.

**§ -10 Services purchased from authorizer; itemized accounting.** (a) No public charter school shall be required to purchase services from its authorizer as a condition of charter approval or renewal or of executing a charter contract, nor may any such condition be implied.



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(b) A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school. An authorizer may not charge more than market rates for services provided to a public charter school.

(c) Within days after the end of each fiscal year, each authorizer shall provide to each public charter school it oversees an itemized accounting of the actual costs of services purchased by the public charter school from the authorizer. Any difference between the amount initially charged to the public charter school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in the accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by the board of education whose determination shall be final.



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**§ -11 Oversight of public charter school authorizers.**

(a) The board of education shall be responsible for overseeing the performance and effectiveness of all authorizers established under this chapter.

(b) In accordance with section -7, every authorizer shall submit to the board of education and the legislature an annual report. The board shall, by of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.

(c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the board of education. In reviewing or evaluating the performance of authorizers the board shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the board finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the board, or the requirements of all authorizers under this chapter, the board shall notify the authorizer in writing of the identified



1 problems, and the authorizer shall have reasonable opportunity  
2 to respond to and remedy the problems.

3 (d) If an authorizer persists, after due notice from the  
4 board, in violating a material provision of a charter contract  
5 or its authorizing contract with the board, or fails to remedy  
6 other identified authorizing problems, the board shall notify  
7 the authorizer, within a reasonable amount of time under the  
8 circumstances, that it intends to revoke the authorizer's  
9 chartering authority unless the authorizer demonstrates a timely  
10 and satisfactory remedy for the violation or deficiencies.

11 (e) In the event of revocation of any authorizer's  
12 chartering authority, the board shall manage the timely and  
13 orderly transfer of each charter contract held by that  
14 authorizer to another authorizer in the State, with the mutual  
15 agreement of each affected public charter school and proposed  
16 new authorizer. The new authorizer shall assume the existing  
17 charter contract for the remainder of the charter term.

18 **§ -12 Charter school governing boards; powers and**  
19 **duties.** (a) All governing boards, with the exception of those  
20 of conversion charter schools that are managed and operated by a  
21 nonprofit organization pursuant to section -14, shall be  
22 composed of no more than thirteen members; provided that no more



1 than thirty per cent of the members shall be employees of a  
2 school or relatives of employees of a school under the  
3 jurisdiction of that governing board. In selecting members,  
4 consideration shall be given to persons who:

5 (1) Demonstrate an understanding of best practices of non-  
6 profit governance;

7 (2) Possess strong financial management, academic  
8 oversight, human resources, and fundraising  
9 experience; and

10 (3) Provide the governing board with a diversity of  
11 perspective and a level of objectivity that accurately  
12 represent the interests of the charter school students  
13 and the surrounding community.

14 (b) No employee of a charter school or relative of an  
15 employee of a charter school may serve as the chair of the  
16 governing board of that charter school; provided that an  
17 authorizer may grant an exemption from the provisions of this  
18 subsection based upon a determination by the authorizer that an  
19 exemption is in the best interest of the charter school.

20 (c) The governing board shall be the independent governing  
21 body of its charter school and shall have oversight over and be  
22 responsible for the financial and academic viability of the



1 charter school, implementation of the charter, and the  
2 independent authority to determine the organization and  
3 management of the school, the curriculum, virtual education, and  
4 compliance with applicable federal and state laws. The  
5 governing board shall have the power to negotiate supplemental  
6 collective bargaining agreements with the exclusive  
7 representatives of their employees.

8 (d) Governing boards shall be exempt from chapter 103D,  
9 but shall develop internal policies and procedures for the  
10 procurement of goods, services, and construction, consistent  
11 with the goals of public accountability and public procurement  
12 practices. Governing boards and charter schools are encouraged  
13 to use the provisions of chapter 103D wherever possible;  
14 provided that the use of one or more provisions of chapter 103D  
15 shall not constitute a waiver of the exemption from chapter 103D  
16 and shall not subject the charter school to any other provision  
17 of chapter 103D.

18 (e) Charter schools and their governing boards shall be  
19 exempt from the requirements of chapters 91 and 92. The  
20 governing boards shall:

- 21 (1) Make available the notices and agendas of public  
22 meetings:



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(A) At a publicly accessible area in the governing board's office and the commission's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the commission's internet website not less than six calendar days prior to the public meeting, unless a waiver is granted by the chair of the commission in the case of an emergency; and

(2) Make available the minutes from public meetings on a timely basis and maintain a list of the current names and contact information of the governing board's members and officers:

(A) In the governing board's office and the commission's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the commission's internet website.



1 (f) Charter schools and their governing boards shall  
2 develop internal policies and procedures consistent with ethical  
3 standards of conduct, pursuant to chapter 84.

4 (g) The State shall afford the governing board of any  
5 charter school the same protections as the State affords the  
6 board of education.

7 (h) For purposes of this section, "employees" shall  
8 include the chief executive officer, chief administrative  
9 officer, executive director, or otherwise designated head of a  
10 school.

11 **§ -13 Start-up charter schools; establishment.** (a) New  
12 start-up charter schools may be established pursuant to this  
13 section.

14 (b) Any community, group of teachers, group of teachers  
15 and administrators, or nonprofit organization may submit a  
16 letter of intent to an authorizer to form a charter school,  
17 establish a governing board as its governing body, and develop  
18 an application pursuant to subsection (d).

19 (c) The start-up charter school application process and  
20 schedule shall be determined by the commission, and shall  
21 provide for and include the following elements:



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- (1) The submission of a letter of intent to operate a start-up charter school;
- (2) The timely transmittal of the application form and completion guidelines to the governing board;
- (3) The timely submission of a completed application to the authorizer;
- (4) The timely review of the application by the authorizer for completeness, and notification by the authorizer to the interim governing board that the application is complete;
- (5) Upon receipt of a completed application, the convening of the commission, if applicable, by the commission chairperson to begin review of the application;
- (6) Following the submission of an application, issuance of a charter or denial of the application by the authorizer or if submitted to the commission, by majority vote;
- (7) A provision for a final date by which a decision must be made, upon receipt of a complete application; and
- (8) A provision that no start-up charter school may begin operation before obtaining authorizer approval of its charter and charter contract.



(d) An application to become a start-up charter school shall meet the requirements of this subsection and section

-25. The application shall include the following:

(1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;

(2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty;

(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;

(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;

(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:

(A) Recognizes the interests of the general public;

(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;

(C) Includes a system of faculty and staff accountability that holds faculty and staff



1 individually and collectively accountable for  
2 their performance, and that is at least  
3 equivalent to the average system of  
4 accountability in public schools throughout the  
5 State; and

6 (D) Provides for program audits and annual financial  
7 audits;

8 (6) A governance structure for the charter school that  
9 incorporates a conflict of interest policy and a plan  
10 for periodic training to carry out the duties of  
11 governing board members;

12 (7) A financial plan based on the most recent fiscal  
13 year's per-pupil charter school allocation that  
14 demonstrates the ability to meet the financial  
15 obligations of one-time, start-up costs and ongoing  
16 costs such as monthly payrolls, faculty recruitment,  
17 professional development, and facilities costs; and

18 (8) A facilities plan.

19 (e) Any applicant whose charter application is denied by  
20 the authorizer shall not be allowed to amend or resubmit the  
21 application to the authorizer during a given cycle, as defined  
22 by the authorizer; provided that an applicant shall have the



1 right to appeal the authorizer's denial of its application  
2 pursuant to section -15.

3       **§ -14 Conversion charter schools; establishment.** (a) A  
4 conversion charter school may be established pursuant to this  
5 section.

6       (b) Any department school, school community council, group  
7 of teachers, group of teachers and administrators, or nonprofit  
8 organization may submit a letter of intent to an authorizer to  
9 convert a department school to a charter school, establish a  
10 governing board as its governing body, and develop an  
11 application pursuant to subsection (d).

12       (c) The conversion charter school application process and  
13 schedule shall be determined by the commission, and shall  
14 provide for and include the following elements:

15       (1) The submission of a letter of intent to convert to a  
16 charter school;

17       (2) The timely transmittal of the application form and  
18 completion guidelines to the governing board;

19       (3) The timely submission of a completed application to  
20 the authorizer; provided that the application shall  
21 include certification and documentation that the  
22 application was approved by a majority of the votes



1 cast by existing administrative, support, teaching  
2 personnel, and parents of students at the proposed  
3 conversion charter school;

4 (4) The timely review of the application by the authorizer  
5 for completeness, and notification by the authorizers  
6 to the governing board that the application is  
7 complete;

8 (5) Upon receipt of a completed application, the convening  
9 of the commission, if applicable, by the commission  
10 chairperson to begin review of the application;

11 (6) Following the submission of an application, issuance  
12 of a charter or denial of the application by the  
13 authorizer or if submitted to the commission, by  
14 majority vote;

15 (7) A provision for a final date by which a decision must  
16 be made upon receipt of a complete application; and

17 (8) A provision that no conversion charter school may  
18 begin operation before obtaining authorizer approval  
19 of its charter and charter contract.

20 (d) An application to become a conversion charter school  
21 shall meet the requirements of this subsection and section

22 -25. The application shall include the following:



- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
- (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty;
- (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;
- (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
- (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
  - (A) Recognizes the interests of the general public;
  - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
  - (C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of



1 accountability in public schools throughout the  
2 State; and

3 (D) Provides for program audits and annual financial  
4 audits;

5 (6) A governance structure for the charter school that  
6 incorporates a conflict of interest policy and a plan  
7 for periodic training to carry out the duties of  
8 governing board members;

9 (7) A financial plan based on the most recent fiscal  
10 year's per-pupil charter school allocation that  
11 demonstrates the ability to meet the financial  
12 obligations of one-time, start-up costs and ongoing  
13 costs such as monthly payrolls, faculty recruitment,  
14 professional development, and facilities costs; and

15 (8) A facilities plan.

16 (e) A nonprofit organization may submit a letter of intent  
17 to an authorizer to convert a department school to a conversion  
18 charter school, operate and manage the school, establish a  
19 governing board as its governing body, and develop an  
20 application pursuant to subsection (d); provided that:

21 (1) As the governing body of the conversion charter  
22 school, the governing board shall be composed of the



1 board of directors of the nonprofit organization and  
2 not representatives of the participant groups  
3 specified in section -12. The nonprofit  
4 organization may also appoint advisory groups of  
5 community representatives for each school managed by  
6 the nonprofit organization; provided that these groups  
7 shall not have governing authority over the school and  
8 shall serve only in an advisory capacity to the  
9 nonprofit organization;

10 (2) The application for each conversion charter school to  
11 be operated by the nonprofit organization shall be  
12 formulated, developed, and submitted by the nonprofit  
13 organization, and shall be approved by a majority of  
14 the votes cast by existing administrative, support,  
15 and teaching personnel, and parents of the students of  
16 the proposed conversion charter school;

17 (3) The board of directors of the nonprofit organization,  
18 as the governing body for the conversion charter  
19 school that it operates and manages, shall have the  
20 same protections that are afforded to the board of  
21 education in its role as the conversion charter school  
22 governing body;



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(4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that the nonprofit organization makes a minimum annual contribution of \$1 per pupil toward the operation of a conversion charter school for every \$4 per pupil allocated by the department of budget and finance for the operation of the conversion charter school; provided further that in no event shall the nonprofit organization be required to contribute more than the total required contribution per pupil per year. As used in this paragraph, "total required contribution" means:

(A) \$1,650 for school years 2011-2012 through 2015-2016; and

(B) \$1,815 for school years 2016-2017 through 2020-2021; and

(5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the charter school, the charter school may submit a revised application to the authorizer to continue as



1 a conversion school without the participation of the  
2 nonprofit organization.

3 (f) Any nonprofit organization that seeks to manage or  
4 operate a conversion charter school as provided in subsection  
5 (e) shall comply with the following at the time of application:

6 (1) Have bylaws or policies that describe the manner in  
7 which business is conducted and policies that relate  
8 to the management of potential conflict of interest  
9 situations;

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

14 (3) Comply with all applicable federal, state, and county  
15 laws, including licensure or accreditation, as  
16 applicable; and

17 (4) Comply with any other requirements prescribed by the  
18 department to ensure adherence with applicable  
19 federal, state, and county laws, and the purposes of  
20 this chapter.

21 (g) Any public school or schools, programs, or sections of  
22 existing public school populations that are part of a separate



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1 Hawaiian language immersion program using existing public school  
2 facilities may submit a letter of intent to an authorizer to  
3 form a conversion charter school pursuant to this section.

4 (h) In the event of a conflict between the provisions in  
5 this section and other provisions in this chapter, this section  
6 shall control.

7 (i) Any applicant whose charter application is denied by  
8 the authorizer shall not be allowed to amend or resubmit the  
9 application to the authorizer during a given cycle, as defined  
10 by the authorizer, except as provided in subsection (e)(5);  
11 provided that an applicant shall have the right to appeal the  
12 authorizer's denial of its application pursuant to section  
13 -15.

14 **§ -15 Appeals; charter school applications,**  
15 **reauthorizations, or revocations.** The board shall have the  
16 power to decide appeals of decisions by the commission or an  
17 authorizer to deny the approval of a charter school application,  
18 deny reauthorization of a charter school, or revoke a charter  
19 school's charter. An appeal shall be filed with the board  
20 within twenty-one calendar days of the receipt of the  
21 notification of denial or revocation. Only a party whose  
22 charter school application has been denied, whose



1 reauthorization has been denied, or whose charter has been  
2 revoked may initiate an appeal under this section for cause.  
3 The board shall review an appeal and issue a final decision  
4 within sixty calendar days of the filing of the appeal. The  
5 board may adopt applicable rules and procedures pursuant to  
6 chapter 91 for implementing the appeals process.

7       **§ -16 Performance framework.** (a) The performance  
8 provisions within the charter contract shall be based on a  
9 performance framework that clearly sets forth the academic and  
10 operational performance indicators, measures, and metrics that  
11 will guide the authorizer's evaluations of each public charter  
12 school. The performance framework shall include indicators,  
13 measures, and metrics for, at a minimum:

- 14       (1) Student academic proficiency;
- 15       (2) Student academic growth;
- 16       (3) Achievement gaps in proficiency and growth between  
17           major student subgroups;
- 18       (4) Attendance;
- 19       (5) Recurrent enrollment from year to year;
- 20       (6) Postsecondary readiness, as applicable for high  
21           schools;
- 22       (7) Financial performance and sustainability; and



1 (8) Performance and stewardship, including compliance with  
2 all applicable laws, rules, and terms of the charter  
3 contract.

4 (b) Annual performance targets shall be set by each public  
5 charter school in conjunction with its authorizer, and shall be  
6 designed to help each school meet applicable federal, state, and  
7 authorizer expectations.

8 (c) The performance framework shall allow the inclusion of  
9 additional rigorous, valid, and reliable indicators proposed by  
10 a public charter school to augment external evaluations of its  
11 performance; provided that the authorizer approves the quality  
12 and rigor of such school-proposed indicators, and they are  
13 consistent with the purposes of this chapter.

14 (d) The performance framework shall require the  
15 disaggregation of all student performance data by major student  
16 subgroups, including gender, race, poverty status, special  
17 education status, English as a second language status, and  
18 gifted and talented status.

19 (e) For each public charter school it oversees, the  
20 authorizer shall be responsible for collecting, analyzing, and  
21 reporting all data from assessments in accordance with the  
22 performance framework.



(f) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual charter schools, and each charter school shall be held independently accountable for its performance.

**§ -17 Ongoing oversight and corrective actions.** (a) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter and adhere to the terms of the charter contract.

(b) Each authorizer shall annually publish and provide, as part of its annual report to the board of education and the legislature, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and section -16. The authorizer may require each public charter school it oversees to



1 submit an annual report to assist the authorizer in gathering  
2 complete information about each school, consistent with the  
3 charter contract.

4 (c) In the event that a public charter school's  
5 performance or legal compliance appears unsatisfactory, the  
6 authorizer shall promptly notify the public charter school of  
7 the perceived problem and provide reasonable opportunity for the  
8 charter school to remedy the problem, unless the problem  
9 warrants revocation in which case the revocation timeframes set  
10 forth in section -18 shall apply.

11 (d) Notwithstanding section -18 to the contrary, every  
12 authorizer shall have the authority to take appropriate  
13 corrective actions or exercise sanctions short of revocation in  
14 response to apparent deficiencies in public charter school  
15 performance or legal compliance. Such actions or sanctions may  
16 include, if warranted, requiring a school to develop and execute  
17 a corrective action plan within a specified timeframe.

18 (e) If there is an immediate concern for student or  
19 employee health or safety at a charter school, the authorizer,  
20 in consultation with the commission, may adopt an interim  
21 restructuring plan that may include the appointment of an  
22 interim governing board, a governing board chairperson, or a



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1 principal to temporarily assume operations of the school;  
2 provided that if possible without further jeopardizing the  
3 health or safety of students and employees, the charter school's  
4 stakeholders and community are first given the opportunity to  
5 elect a new governing board which shall appoint a new interim  
6 principal.

7 The board shall have the authority to direct the authorizer  
8 to take appropriate action to immediately address serious health  
9 and safety issues that may exist at a charter school in order to  
10 ensure the health and safety of students and employees and  
11 mitigate significant liability to the State.

12 **§ -18 Renewals, revocations, and nonrenewals.** (a) A  
13 charter contract may be renewed for successive five-year terms  
14 of duration, although an authorizer may vary the terms based on  
15 performance, demonstrated capacities, and particular  
16 circumstances of each charter school. An authorizer may grant a  
17 renewal of a charter contract with specific conditions for  
18 necessary improvements to a charter school.

19 (b) No later than , the authorizer shall issue a  
20 charter school performance report and charter contract renewal  
21 application guidance to any charter school whose charter  
22 contract will expire the following year. The performance report



1 shall summarize the charter school's performance record to date,  
2 based on the data required by this chapter and the charter  
3 contract, and shall provide notice of any weaknesses or concerns  
4 perceived by the authorizer concerning the charter school that  
5 may jeopardize its position in seeking renewal if not timely  
6 rectified. The charter school shall have            days to respond  
7 to the performance report and submit any corrections or  
8 clarifications for the report.

9        (c) The renewal application guidance shall, at a minimum,  
10 provide an opportunity for the public charter school to:

11        (1) Present additional evidence, beyond the data contained  
12            in the performance report, supporting its case for  
13            charter renewal;

14        (2) Describe improvements undertaken or planned for the  
15            school; and

16        (3) Detail the charter school's plans for the next charter  
17            term.

18        (d) The renewal application guidance shall include or  
19 refer explicitly to the criteria that will guide the  
20 authorizer's renewal decisions, which shall be based on the  
21 charter contract and be consistent with this chapter.



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(e) No later than \_\_\_\_\_, the governing board of a charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal guidance issued by the authorizer. The authorizer shall decide whether or not to renew the charter no later than \_\_\_\_\_ days after the filing of the renewal application.

(f) In making charter renewal decisions, every authorizer shall:

(1) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(2) Ensure that data used in making the renewal decisions are available to the charter school and the public; and

(3) Provide a public report summarizing the evidence and basis for each decision.

(g) A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:



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- (1) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;
  - (2) Failed to meet or make sufficient progress toward performance expectations set forth in the contract;
  - (3) Failed to meet generally accepted standards of fiscal management; or
  - (4) Substantially violated any material provision of law from which the charter school is not exempted.
- (h) An authorizer shall develop revocation and non-renewal processes that:
- (1) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and the reasons for such possible closure;
  - (2) Allow the charter holders a reasonable amount of time in which to prepare a response;
  - (3) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose;



(4) Allow charter holders access to representation by counsel and to call witnesses on their behalf;

(5) Permit the recording of proceedings described in paragraph (3); and

(6) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter holders.

(i) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state in writing the reasons for the revocation or nonrenewal.

(j) Within days of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the board the action taken, and shall simultaneously provide a copy of the report to the charter school. The report shall set forth the action taken and reasons for the decision and assurances as to compliance with all the requirements set forth in this chapter.

**§ -19 School closure and dissolution.** (a) Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of



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1 school funds, property, and assets in accordance with the  
2 requirements of this chapter. The protocol shall specify tasks,  
3 timelines, and responsible parties, including delineating the  
4 respective duties of the school and the authorizer. In the  
5 event of a public charter school closure for any reason, the  
6 authorizer shall oversee and work with the closing school to  
7 ensure a smooth and orderly closure and transition for students  
8 and parents, as guided by the closure protocol.

9 (b) In the event of a public charter school closure for  
10 any reason, the assets of the school, excluding facilities,  
11 shall be distributed first to satisfy outstanding payroll  
12 obligations for employees of the school, then to creditors of  
13 the school, and then to the state treasury to the credit of the  
14 general fund. If the assets of the school are insufficient to  
15 pay all parties to whom the school owes compensation, the  
16 prioritization of the distribution of assets may be determined  
17 by decree of a court of law.

18 (c) In the event of a public charter school closure for  
19 any reason, other public charter schools shall have the right of  
20 first refusal for the closed public charter school's facilities.  
21 If no other public charter school exercises the right of first



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1 refusal, the facilities shall revert back to the department and  
2 the State.

3       **§ -20 Charter transfers.** Transfer of a charter  
4 contract, and of oversight of that public charter school, from  
5 one authorizer to another before the expiration of the charter  
6 term shall not be permitted except by special petition to the  
7 board of education by a public charter school or its authorizer.  
8 The board shall review such petitions on a case-by-case basis  
9 and may grant transfer requests in response to special  
10 circumstances and evidence that such a transfer would serve the  
11 best interests of the public charter school's students.

12       **§ -21 Annual board report.** On or before                      of  
13 each year, the board of education shall issue to the governor,  
14 the legislature, and the public, an annual report on the State's  
15 public charter schools, drawing from the annual reports  
16 submitted by every authorizer as well as any additional relevant  
17 data compiled by the board, for the school year ending in the  
18 preceding calendar year. The annual report shall include:

19           (1) A comparison of the performance of public charter  
20 school students with the performance of academically,  
21 ethnically, and economically comparable groups of  
22 students in public schools governed by chapter 302A;



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(2) 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;

(3) A line-item breakdown of all federal funds received by the department and distributed to authorizers; and

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

**§ -22 Board as final arbitrator.** (a) The board of education shall serve as the final arbitrator of any dispute between an authorizer, charter school, governing board, and the department.

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

(c) The board shall adopt applicable rules and procedures pursuant to chapter 91 for implementing this section.

**§ -23 Uniform education reporting system.** The board of education shall establish a uniform education reporting system



1 that shall include requirements for reporting fiscal, personnel,  
2 and student data, by means of electronic transfer of data files  
3 from charter schools to the department. All charter schools  
4 shall comply with the requirements of the uniform education  
5 reporting system by the beginning of the 2012-2013 school year.

6 **§ -24 Occupancy and use of facilities of public schools.**

7 (a) When the department considers whether to close any  
8 particular public school, the department shall submit a notice  
9 of possible availability of a public school or notice of vacancy  
10 of a public school to the board pursuant to section  
11 302A-1151.5(b); provided that the department has not elected to  
12 use the public school to support education programs.

13 (b) If a charter school exclusively or jointly occupies or  
14 uses buildings or facilities of a public school immediately  
15 prior to converting to a charter school, upon conversion that  
16 charter school shall be given continued exclusive or joint use  
17 of the buildings or facilities; provided that:

18 (1) The State may reclaim some or all of the buildings or  
19 facilities if it demonstrates a tangible and  
20 imperative need for such reclamation; and

21 (2) The State and the conversion charter school  
22 voluntarily enter into an agreement detailing the



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1           portion of those buildings or facilities that shall be  
2           reclaimed by the State and a timetable for the  
3           reclamation. If a timetable cannot be reached, the  
4           State may petition the board for the reclamation, and  
5           the board may grant the petition only to the extent  
6           that it is not possible for the conversion charter  
7           school and the State to jointly occupy or use the  
8           buildings or facilities.

9           (c) Upon receipt of a notice pursuant to section  
10          302A-1151.5(b), the board shall solicit applications from  
11          charter schools interested in using and occupying all or  
12          portions of the facilities of the public school by:

13          (1) Promptly notifying all charter schools that the public  
14          school is being considered for closure; and

15          (2) Affording each charter school an opportunity to submit  
16          an application with a written explanation and  
17          justification of why the charter school should be  
18          considered for possible occupancy and use of the  
19          facilities of the public school.

20          (d) After fully considering each charter school's  
21          application and based on the applications received and on other  
22          considerations, the board shall:



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(1) Provide a written response to each charter school's application after each application has been fully considered;

(2) Compile a prioritized list of charter schools; and

(3) Make a final determination of which charter school, if any, shall be authorized to use and occupy the public school facilities.

(e) Upon the selection of a charter school to use a vacant school facility or portion of a school facility, the department and the charter school's authorizer shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section; provided that any agreement between the authorizer and the department shall stipulate that a charter school that uses and occupies a public school facility or portion of a public school facility shall be responsible for the full or pro rata share of the repair and maintenance costs for that facility or portion of the facility, as the case may be.

(f) The board shall adopt policies and procedures necessary to carry out the purposes of this section, including but not limited to:

(1) Procedures for charter schools to apply in writing to use vacant school facilities;



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(2) Criteria for the board to use in determining which charter schools to include on the prioritized list to be submitted to the department; and

(3) Procedures for the board to notify charter school applicants that are granted or denied the use of vacant school facilities.

(g) For purposes of this section, "public school" means any school that falls within the definition of public schools in section 302A-101, except for charter schools.

**§ -25 Exemptions from state laws.** (a) Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

(1) Collective bargaining under chapter 89; provided that:

(A) The exclusive representatives as defined in chapter 89 and the governing board of the charter school may enter into supplemental agreements that contain cost and noncost items to facilitate decentralized decision-making;

(B) The agreements shall be funded from the current allocation or other sources of revenue received by the charter school; provided that collective bargaining increases for employees shall be



1 allocated by the department of budget and finance  
2 to the charter school's authorizer for  
3 distribution to the charter school; and

4 (C) These supplemental agreements may differ from the  
5 master contracts negotiated with the department;

6 (2) Discriminatory practices under section 378-2; and

7 (3) Health and safety requirements.

8 (b) Charter schools, the commission, and authorizers shall  
9 be exempt from chapter 103D, but shall develop internal policies  
10 and procedures for the procurement of goods, services, and  
11 construction, consistent with the goals of public accountability  
12 and public procurement practices. Charter schools, the  
13 commission, and authorizers are encouraged to use the provisions  
14 of chapter 103D where possible; provided that the use of one or  
15 more provisions of chapter 103D shall not constitute a waiver of  
16 the exemption from chapter 103D and shall not subject the  
17 charter school, commission, or authorizer to any other provision  
18 of chapter 103D. Charter schools, the commission, and  
19 authorizers shall account for funds expended for the procurement  
20 of goods and services, and this accounting shall be available to  
21 the public.



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1 (c) Any charter school, prior to the beginning of the  
2 school year, may enter into an annual contract with any  
3 department for centralized services to be provided by that  
4 department.

5 (d) Notwithstanding any law to the contrary, as public  
6 schools and entities of the State, a charter school, the  
7 commission, and any authorizer may not bring suit against any  
8 other entity or agency of the State.

9 **§ -26 Civil service status; employee rights.** (a) Civil  
10 service employees of department schools shall retain their civil  
11 service status upon the conversion of their school to a  
12 conversion charter school. Positions in a conversion charter  
13 school that would be civil service in a department public school  
14 shall be civil service positions and subject to chapter 76. An  
15 employee with civil service status at a conversion charter  
16 school who transfers, is promoted, or takes a voluntary demotion  
17 to another civil service position shall be entitled to all of  
18 the rights, privileges, and benefits of continuous,  
19 uninterrupted civil service. Civil service employees of a  
20 conversion charter school shall have civil service status in the  
21 department's civil service system and shall be entitled to all  
22 rights, privileges, and benefits as other civil service



1 employees employed by the department. Exempt employees as  
2 provided in section 76-16(b)(11)(B) of a conversion charter  
3 school shall have support services personnel status in the  
4 department's support services personnel system and shall be  
5 entitled to all rights, privileges, and benefits as other exempt  
6 employees employed by the department in their support services  
7 personnel system.

8 (b) The State shall afford administrative, support, and  
9 instructional employees in charter schools full participation in  
10 the State's systems for retirement, workers' compensation,  
11 unemployment insurance, temporary disability insurance, and  
12 health benefits in accordance with the qualification  
13 requirements for each.

14 (c) The department, to the extent possible, shall provide  
15 its position listings to the commission, authorizers, and any  
16 interested governing board of any charter school.

17 (d) The department, in conjunction with the commission and  
18 authorizers, shall facilitate and encourage the movement of  
19 instructional personnel between the department and charter  
20 schools; provided that:

21 (1) Comparable and verifiable professional development and  
22 employee evaluation standards and practices, as



determined and certified by the commission or authorizer, are in place in charter schools for instructional staff;

(2) Licensed charter school teachers, as determined by the Hawaii teacher standards board, who are not yet tenured in the department and are entering or returning to the department after full-time employment of no less than one full school year at a charter school, shall be subject to no more than one year of probationary status; and

(3) Tenured department licensed teachers, as determined by the department, who transfer to charter schools shall not be required to serve a probationary period.

**§ -27 Administration of workers' compensation.** The department of human resources development shall administer workers' compensation claims for employees of charter schools, who shall be covered by the same self-insured workers' compensation system as other public employees. The department of human resources development shall process, investigate, and make payments on claims; provided that:



(1) Charter schools shall compile the preliminary claim form and forward it to the department of human resources development; and

(2) The department of human resources development shall receive no more than 0.07 per cent of the EDN 600 appropriation to process these workers' compensation claims.

**§ -28 Funding and finance.** (a) Beginning with fiscal year 2012-2013, and each fiscal year thereafter, the non-facility general fund per-pupil funding request for charter school students shall be the same as the general fund per-pupil amount to the department in the most recently approved executive budget recommendation for the department and shall be based upon reasonable projected enrollment figures for all charter schools. The general fund per-pupil request for each regular education and special education student shall:

(1) Include all general fund regular education cost categories, including comprehensive school support services, but excluding special education services, adult education, and the after-school plus program; provided that these services are provided and funded by the department; and



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1 (2) Exclude fringe benefit costs and debt service.

2 (b) Fringe benefit costs for charter school employees,  
3 regardless of the payroll system utilized by a charter school,  
4 shall be included in the department of budget and finance's  
5 annual budget request. No fringe benefit costs shall be charged  
6 directly to or deducted from the charter school per-pupil  
7 allocations.

8 The legislature shall make an appropriation based upon the  
9 budget request; provided that the legislature may make  
10 additional appropriations for facility and other costs.

11 The governor, pursuant to chapter 37, may impose  
12 restrictions or reductions on charter school appropriations  
13 similar to those imposed on other public schools.

14 (c) Charter schools shall be eligible for all federal  
15 financial support to the same extent as all other public  
16 schools. The department shall provide the commission and  
17 authorizers with all state-level federal grant proposals  
18 submitted by the department that include charter schools as  
19 potential recipients and timely reports on state-level federal  
20 grants received for which charter schools may apply or are  
21 entitled to receive. Federal funds received by the department  
22 for charter schools shall be transferred to authorizers for



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1 distribution to the charter schools they authorize in accordance  
2 with the federal requirements. If administrative services  
3 related to federal grants and subsidies are provided to the  
4 charter school by the department, the charter school shall  
5 reimburse the department for the actual costs of the  
6 administrative services in an amount that shall not exceed six  
7 and one-half per cent of the charter school's federal grants and  
8 subsidies.

9 Any charter school shall be eligible to receive any  
10 supplemental federal grant or award for which any other public  
11 school may submit a proposal, or any supplemental federal grants  
12 limited to charter schools; provided that if department  
13 administrative services, including funds management, budgetary,  
14 fiscal accounting, or other related services, are provided with  
15 respect to these supplemental grants, the charter school shall  
16 reimburse the department for the actual costs of the  
17 administrative services in an amount that shall not exceed six  
18 and one-half per cent of the supplemental grant for which the  
19 services are used.

20 All additional funds generated by the governing boards,  
21 that are not from a supplemental grant, shall be held separate



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1 from allotted funds and may be expended at the discretion of the  
2 governing boards.

3 (d) Authorizers shall calculate a general fund per-pupil  
4 amount based upon the amount of general funds appropriated by  
5 the legislature and released by the governor and the projected  
6 enrollment amount used to calculate the general funds  
7 appropriated pursuant to subsection (a); provided that:

8 (1) Per-pupil distributions to the charter schools  
9 pursuant to subsection (e) shall be based upon the  
10 per-pupil amount as calculated by authorizers pursuant  
11 to this subsection. The per-pupil distributions shall  
12 be deposited into the charter schools account  
13 established by subsection (i); and

14 (2) In years when the projected enrollment used to  
15 calculate the per-pupil amount pursuant to this  
16 subsection exceeds the total actual enrollment as  
17 reported by the charter schools as of October 15, the  
18 excess funds shall remain in the state treasury in the  
19 charter schools account;

20 (A) General funds appropriated pursuant to this  
21 section remaining in the charter schools account  
22 within the state treasury at the end of each



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1           fiscal year and in excess of \$5,000,000 shall  
2           lapse to the credit of the state general fund;  
3           and

4           (B) General funds remaining in the charter schools  
5           account in the state treasury appropriated  
6           pursuant to this section that are less than  
7           \$5,000,000 shall carry over to subsequent years  
8           to be used to provide per-pupil funding in years  
9           when the projected enrollment amount is less than  
10          the actual per-pupil enrollment reported by the  
11          charter schools on October 15 of each year.

12          Authorizers shall submit a report to the legislature no  
13          later than twenty days prior to the convening of each regular  
14          session that contains each charter school's current school year  
15          projection that is used to submit the budget request, the  
16          updated May 15 enrollment projection, the actual October 15  
17          enrollment count, the authorizer's reviewed and verified  
18          enrollment count, and the November 15 enrollment count. This  
19          report shall also provide an accounting of the use, if any, of  
20          state general funds subject to paragraph (2)(B).

21          (e) To enable charter schools to access state funding  
22          prior to the start of each school year, foster their fiscal



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1 planning, enhance their accountability, and avoid over-  
2 allocating general funds to charter schools based on self-  
3 reported enrollment projections, authorizers shall:

4 (1) Provide sixty per cent of a charter school's per-pupil  
5 allocation based on the charter school's projected  
6 student enrollment no later than July 20 of each  
7 fiscal year; provided that the charter school shall  
8 have submitted to its authorizer a projected student  
9 enrollment no later than May 15 of each year;

10 (2) Provide an additional thirty per cent of a charter  
11 school's per-pupil allocation no later than December 1  
12 of each year, based on the October 15 student  
13 enrollment, as reviewed and verified by the  
14 authorizer, only to schools in compliance with all  
15 financial reporting requirements; and

16 (3) Retain no more than the balance of the remaining ten  
17 per cent of a charter school's per-pupil allocation,  
18 as a contingency balance to ensure fiscal  
19 accountability and compliance, no later than June 30  
20 of each year;

21 provided that the board may make adjustments in allocations  
22 based on noncompliance with board policies made in the board's



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1 capacity as the state education agency, department directives  
2 made in the department's capacity as the state education agency,  
3 the board's administrative procedures, and board-approved  
4 accountability requirements.

5 (f) Any check transferring a per-pupil allocation from an  
6 authorizer to a charter school under this section shall be  
7 co-signed by the executive director of the commission and an  
8 authorized agent of the authorizer.

9 (g) The department shall provide appropriate transitional  
10 resources to a conversion charter school for its first year of  
11 operation as a charter school based upon the department's  
12 allocation to the school for the year prior to the conversion.

13 (h) No start-up charter school or conversion charter  
14 school may assess tuition.

15 (i) There is created in the treasury of the State, as a  
16 separate account, the charter schools account, into which shall  
17 be deposited per-pupil distributions in accordance with  
18 subsection (d).

19 **§ -29 Weighted student formula.** (a) Notwithstanding  
20 section -28, charter schools shall elect whether to receive  
21 allocations according to the department's weighted student  
22 formula adopted pursuant to section 302A-1303.6; provided that:



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1       (1) All charter schools, as a group, with each governing  
2       board being accorded one vote, shall elect, by greater  
3       than two-thirds agreement among the governing boards,  
4       whether to receive allocations through the  
5       department's weighted student formula; provided that a  
6       nonprofit organization that governs more than one  
7       conversion charter school may cast one vote  
8       representing each school it governs;

9       (2) Any election by charter schools to receive department  
10      allocations, or not to receive allocations, through  
11      the department's weighted student formula shall be  
12      made by September 1 of each even-numbered year, and  
13      the election shall apply to the fiscal biennium  
14      beginning July 1 of the following year; provided that  
15      the appropriate funds shall be transferred by the  
16      department to the authorizers for distribution to the  
17      charter schools they authorize; and

18      (3) The election to receive allocations, or not to receive  
19      allocations, through the department's weighted student  
20      formula shall be communicated to the department  
21      through the commission.



1 (b) The charter schools, through their authorizer, may  
2 propose to the board an alternative weighted student formula,  
3 approved by more than two-thirds of the governing boards, with  
4 each governing board being accorded one vote, to be administered  
5 by the commission and to apply to the per-pupil allocation for  
6 charter schools.

7 **§ -30 Responsibilities of the department; special**  
8 **education services.** (a) The department shall collaborate with  
9 the commission to develop a system of technical assistance  
10 related to compliance with federal and state laws and access to  
11 federal and state funds. The department and the commission  
12 shall collaborate to develop a list of central services that the  
13 department may offer for purchase by a charter school at an  
14 annual cost to be negotiated between an individual charter  
15 school and the department. The department shall enter into a  
16 contract with a charter school to provide these services, which  
17 shall be renegotiated on an annual basis.

18 (b) The department shall be responsible for the provision  
19 of a free appropriate public education. Any charter school that  
20 enrolls special education students or identifies one of its  
21 students as eligible for special education shall be responsible  
22 for providing the educational and related services required by a



1 student's individualized education program. The programs and  
2 services for the student shall be determined collaboratively by  
3 the student's individualized education program team and the  
4 student's parents or legal guardians.

5 If the charter school is unable to provide all of the  
6 required services, then the department shall provide the student  
7 with services as determined by the student's individualized  
8 educational program team. The department shall collaborate with  
9 the commission to develop guidelines related to the provision of  
10 special education services and resources to each charter school.  
11 The department shall review all of the current individualized  
12 education programs of special education students enrolled in a  
13 charter school and may offer staff, funding, or both, to the  
14 charter school based upon a per-pupil weighted formula  
15 implemented by the department and used to allocate resources for  
16 special education students in the public schools.

17 **§ -31 Sports.** The department shall provide students at  
18 charter schools with the same opportunity to participate in  
19 athletics as is provided to students at other public schools.  
20 If a student at a charter school wishes to participate in a  
21 sport for which there is no program at the charter school, the  
22 department shall allow that student to participate in a



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1 comparable program of any public school in the complex in which  
2 the charter school is located."

3 SECTION 3. Section 26-35.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) For purposes of this section, "member" means any  
6 person who is appointed, in accordance with the law, to serve on  
7 temporary or permanent state board, including members of the  
8 board of education, the ~~[local school]~~ governing board of any  
9 charter school established under chapter ~~[302B,]~~ \_\_\_\_\_, council,  
10 authority, committee, or commission, established by law or  
11 elected to the board of trustees of the employees' retirement  
12 system under section 88-24, or the corporation board of the  
13 Hawaii health systems corporation under section 323F-3 and its  
14 regional system boards under section 323F-3.5; provided that  
15 "member" shall not include any person elected to serve on a  
16 board or commission in accordance with chapter 11."

17 SECTION 4. Section 89-6, Hawaii Revised Statutes, is  
18 amended by amending subsection (f) to read as follows:

19 "(f) The following individuals shall not be included in  
20 any appropriate bargaining unit or be entitled to coverage under  
21 this chapter:

22 (1) Elected or appointed official;



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- 1       (2) Member of any board or commission; provided that  
2       nothing in this paragraph shall prohibit a member of a  
3       collective bargaining unit from serving on a [~~local~~  
4       ~~school~~] governing board of a charter school, on the  
5       state public charter school commission, or [the] as a  
6       charter school [~~review panel~~] authorizer established  
7       under chapter [~~302B+~~] \_\_\_\_\_ ;
- 8       (3) Top-level managerial and administrative personnel,  
9       including the department head, deputy or assistant to  
10      a department head, administrative officer, director,  
11      or chief of a state or county agency or major  
12      division, and legal counsel;
- 13      (4) Secretary to top-level managerial and administrative  
14      personnel under paragraph (3);
- 15      (5) Individual concerned with confidential matters  
16      affecting employee-employer relations;
- 17      (6) Part-time employee working less than twenty hours per  
18      week, except part-time employees included in unit (5);
- 19      (7) Temporary employee of three months' duration or less;
- 20      (8) Employee of the executive office of the governor or a  
21      household employee at Washington Place;



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(9) Employee of the executive office of the lieutenant governor;

(10) Employee of the executive office of the mayor;

(11) Staff of the legislative branch of the State;

(12) Staff of the legislative branches of the counties, except employees of the clerks' offices of the counties;

(13) Any commissioned and enlisted personnel of the Hawaii national guard;

(14) Inmate, kokua, patient, ward, or student of a state institution;

(15) Student help;

(16) Staff of the Hawaii labor relations board;

(17) Employees of the Hawaii national guard youth challenge academy; or

(18) Employees of the office of elections."

SECTION 5. Section 89-10.55, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) For the purpose of negotiating a memorandum of agreement or a supplemental agreement that only applies to employees of a charter school, the employer shall mean the ~~[local school]~~ governing board, subject to the conditions and



1 requirements contained in the applicable sections of this  
2 chapter governing any memorandum of agreement or supplemental  
3 agreement.

4 (d) Negotiations over matters covered by this section  
5 shall be conducted between the employer and exclusive  
6 representative pursuant to this chapter. Cost items that are  
7 appropriated for and approved by the legislature and contained  
8 in a collective bargaining agreement, memorandum of agreement,  
9 or supplemental agreement covering, wholly or partially,  
10 employees in charter schools shall be allocated by the  
11 department of budget and finance to ~~[the]~~ a charter school  
12 ~~[administrative office]~~ authorizer for distribution to the  
13 charter ~~[schools.]~~ schools it authorizers. However, if the  
14 charter school ~~[administrative office]~~ authorizer deems it  
15 appropriate, the cost items may be funded from a charter  
16 school's existing allocation or other sources of revenue  
17 received by a charter school."

18 SECTION 6. Section 302A-101, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By adding two new definitions to be appropriately  
21 inserted and to read:

22 "Authorizer" has the same meaning as in section -1.



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1        "Commission" has the same meaning as in section        -1."

2        2. By deleting the definitions of "charter school  
3 administrative office" and "charter school review panel".

4        [~~"Charter school administrative office" or "office" means~~  
5 ~~the office established in section 302B-8 responsible for the~~  
6 ~~internal organization, operation, and management of the charter~~  
7 ~~school system.~~

8        ~~"Charter school review panel" or "panel" means the panel~~  
9 ~~established in section 302B-3." ]~~

10       SECTION 7. Section 302A-1101, Hawaii Revised Statutes, is  
11 amended by amending subsection (d) to read as follows:

12       "(d) The board shall appoint the state public charter  
13 school [~~review panel,~~] commission which shall serve as the  
14 statewide charter authorizer for charter schools, with the power  
15 and duty to issue charters, oversee and monitor charter schools,  
16 hold charter schools accountable for their performance, and  
17 revoke charters."

18       SECTION 8. Section 302A-1151.5, Hawaii Revised Statutes,  
19 is amended by amending subsections (b) to (e) to read as  
20 follows:

21       "(b) The department shall submit a notice of possible  
22 availability of a public school to the [~~charter school review~~



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1 ~~panel]~~ board as early as possible; provided that if a vacancy is  
2 established, a notice of vacancy shall be submitted to the  
3 ~~[charter school review panel]~~ board no later than thirty days  
4 after the establishment of the vacancy.

5 (c) Pursuant to section ~~[302B-3.6]~~ -24 and upon  
6 receipt of a notice pursuant to subsection (b), the ~~[charter~~  
7 ~~school review panel]~~ board shall solicit applications from  
8 charter schools interested in using and occupying all or  
9 portions of the facilities of the public school and submit a  
10 prioritized list of charter schools to the department for final  
11 determination of which charter school, if any, shall be  
12 authorized to use and occupy the public school facilities.

13 (d) Upon the selection of a charter school to use a vacant  
14 school facility or portion of a school facility, the department  
15 and the ~~[charter school review panel]~~ selected charter school's  
16 governing board shall enter into necessary agreements within  
17 ninety days of the selection to carry out the purposes of this  
18 section.

19 (e) After receipt by the ~~[charter school review panel]~~  
20 board of a notice pursuant to subsection (b), if the ~~[charter~~  
21 ~~school review panel]~~ board does not ~~[provide]~~ compile a  
22 prioritized list of charter schools because no charter school



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1 has requested to use the facilities of the public school, or if  
2 the ~~[department receives the prioritized list but]~~ board  
3 determines that no charter school on the list is an appropriate  
4 candidate to occupy and use the facilities, the department shall  
5 give reasonable consideration to making all or portions of the  
6 facilities of the public school, if closed, available for  
7 occupancy and use for other educational purposes."

8 SECTION 9. Section 302A-1403, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§302A-1403 Authority to secure federal funds.** The  
11 department, the state public charter school ~~[administrative~~  
12 ~~office,]~~ commission, a charter school authorizer, director of  
13 finance, and governor may take such steps and perform such acts  
14 as may be necessary or proper to secure any such federal funds  
15 for the purposes specified in sections 302A-1401 and 302A-1402."

16 SECTION 10. Section 302A-1404, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) The department and the state public charter school  
19 ~~[administrative office,]~~ commission or an authorizer, as  
20 appropriate, may retain and expend federal indirect overhead  
21 reimbursements for discretionary grants in excess of the  
22 negotiated rate for such reimbursements as determined by the



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1 director of finance and the superintendent or the director of  
2 finance and the [~~executive director of the~~] state public charter  
3 school [administrative office.] commission or an authorizer, as  
4 appropriate."

5 SECTION 11. Section 302A-1505, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) Prior to informing the department about the school's  
8 repair and maintenance needs, the school's principal shall  
9 consider the recommendations made by the school community  
10 council or the [~~local school~~] governing board, if the school is  
11 a charter school."

12 SECTION 12. Chapter 302B, Hawaii Revised Statutes, is  
13 repealed.

14 SECTION 13. Notwithstanding any law to the contrary, the  
15 members of the charter school review panel serving on the day of  
16 the effective date of this Act shall serve on the state public  
17 charter school commission until the appointment of no fewer than  
18 five members to the state public charter school commission  
19 pursuant to section 2 this Act, at which time all members of the  
20 charter school review panel shall be discharged from service and  
21 the members of the state public charter school commission shall  
22 begin their service; provided that any vacancy in the charter



1 school review panel occurring between the effective date of this  
2 Act and the discharge from office of all charter school review  
3 panel members shall remain vacant until appointed to the state  
4 public charter school commission by the board of education  
5 pursuant to this Act.

6 SECTION 14. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 15. This Act shall take effect on July 1, 2013.

9

INTRODUCED BY: \_\_\_\_\_



# S.B. NO.

**Report Title:**

Education; Charter Schools

**Description:**

Establishes a new chapter governing charter schools based on the recommendations of the charter school governance, accountability, and authority task force established by Act 130, Session Laws of Hawaii 2011. Repeals chapter 302B, HRS. Makes housekeeping amendments.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



# Appendix P

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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1       SECTION 1. The legislature finds that the charter school  
2 governance, accountability, and authority task force ("task  
3 force") was established pursuant to section 7 of Act 130,  
4 Session Laws of Hawaii 2011, in response to questions and  
5 concerns raised by policy makers and advocates alike about the  
6 integrity of Hawaii's charter school governance structure and  
7 the overall strength of Hawaii's laws in establishing clear  
8 lines of authority that ensured accountability of the charter  
9 school system.

10       Specifically, the goal of the task force was to provide  
11 clarity to the relationships, responsibilities, and lines of  
12 accountability and authority among stakeholders of Hawaii's  
13 charter school system, including the board of education,  
14 department of education, charter school administrative office,  
15 charter school review panel, and local school boards.

16       In conducting its work, the task force looked at various  
17 sections of the charter school model law put forth by the  
18 National Alliance for Public Charter Schools and used the model



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1 law as a guide in compiling its recommendations to the  
2 legislature.

3 The task force was also fortunate to have the assistance  
4 and input of the National Association of Charter School  
5 Authorizers and the National Governors Association.

6 The task force concluded its work and issued its report and  
7 recommendations to the legislature, which are included in S.B.  
8 No. , Regular Session of 2012.

9 The purpose of this Act is to require the board of  
10 education to contract for an implementation and transition  
11 coordinator to assist in creating a comprehensive transition  
12 framework to implement the recommendations of the task force,  
13 included in S.B. No. , Regular Session of 2012.

14 SECTION 2. (a) The board of education, in consultation  
15 with national organizations such as the National Governors  
16 Association, National Association of Charter School Authorizers,  
17 and National Alliance for Public Charter Schools, shall develop  
18 a scope of work to contract for an implementation and transition  
19 coordinator to assist with:

20 (1) Implementation of the recommendations of the charter  
21 school governance, accountability, and authority task



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1 force pursuant to Act 130, Session Laws of Hawaii  
2 2011; and

3 (2) The transition from the current charter school system  
4 under chapter 302B, Hawaii Revised Statutes, to the  
5 charter school system proposed in S.B. No. ,  
6 Regular Session of 2012.

7 (b) At a minimum, the board shall contract for an  
8 implementation and transition coordinator that possesses the  
9 following:

10 (1) Knowledge of best practices in educational governance  
11 and accountability, with a strong emphasis on charter  
12 schools;

13 (2) Extensive experience in public policy and  
14 administration, specifically working with state policy  
15 makers and community stakeholders; and

16 (3) Demonstrated strong written and oral communication  
17 skills.

18 (c) The scope of work developed pursuant to subsection (a)  
19 shall, at a minimum, require the implementation and transition  
20 coordinator to:

21 (1) Develop a comprehensive plan for the implementation of  
22 the recommendations of the charter school governance,



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1           accountability, and authority task force as set forth  
2           in S.B. No.           , Regular Session of 2012, including  
3           the development of a communications plan, a plan for  
4           engaging key charter school stakeholders, and  
5           development of a strategy for the monitoring and  
6           evaluation of the implementation efforts by the board  
7           of education;

8       (2) Draft policies and procedures, including  
9           administrative rules, necessary for the implementation  
10          of S.B. No.           , Regular Session of 2012;

11       (3) Assist in developing position descriptions for and  
12          recruitment of the state public charter school  
13          commission staff as detailed in the charter school  
14          governance, accountability, and authority task force  
15          report to the legislature pursuant to Act 130, Session  
16          Laws of Hawaii 2011;

17       (4) Determine a plan and develop procedures for the  
18          redistribution of the duties of the charter school  
19          administrative office to other charter school  
20          stakeholders upon the repeal of the charter school  
21          administrative office pursuant to S.B. No.           ,  
22          Regular Session of 2012;



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(5) Develop a funding plan to address the transition of current charter school administrative office staff to the state public charter school commission established pursuant to S.B. No. , Regular Session of 2012;

(6) Assist the board of education with the recruitment and selection of members to the state public charter school commission established pursuant to S.B. No. , Regular Session of 2012;

(7) Prepare communications and coordinate collaboration between charter schools, governing boards, charter school authorizers, board of education, department of education, other state departments, and the legislature in carrying out the scope of work; and

(8) Assist the department of education in taking an inventory of all full time employee positions within the department that work with charter schools and making a recommendation as to which positions may be repurposed or redirected based upon the statutory changes required by S.B. No. , Regular Session of 2012.

(c) The board of education shall be responsible for awarding and overseeing the contract.



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1 (d) The term of the contract shall be for one year;  
2 provided that the board of education and the implementation and  
3 transition coordinator may enter into supplemental contracts as  
4 the board of education may deem necessary to carry out the  
5 purposes of this Act.

6 (e) Chapter 103D, Hawaii Revised Statutes, shall not apply  
7 to the contracting of the implementation and transition  
8 coordinator pursuant to this Act.

9 SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2012-2013 for  
12 the board of education to contract for an implementation and  
13 transition coordinator.

14 The sum appropriated shall be expended by the department of  
15 education for the purposes of this Act.

16 SECTION 4. This Act shall take effect on July 1, 2012,  
17 only if S.B. No. in any form passed by the legislature,  
18 Regular Session of 2012, becomes an Act.

19

INTRODUCED BY: \_\_\_\_\_



# S.B. NO.

**Report Title:**

Charter Schools; Board of Education; Appropriation

**Description:**

Requires the Board of Education to contract for an implementation and transition coordinator to assist with the implementation of S.B. No. , Regular Session of 2012.  
Makes an appropriation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

