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

MINUTES OF THE NOVEMBER 14, 2019 GENERAL BUSINESS MEETING

State Public Charter School Commission
1111 Bishop Street, Suite 516,
Honolulu, HI 96813

PRESENT

Makalapua Alencastre
Harald Barkhoff
Shannon Cleary
Mitch D’Olier (*arrived at 10:33 a.m.*)
John Kim (Chairperson)
Roger Takabayashi (Vice Chairperson)

EXCUSED

Sylvia Hussey
Cathy Ikeda

ALSO PRESENT

Sione Thompson, Executive Director
Yvonne Lau, Deputy Director

I. Call to Order

Commission Chair John Kim called the meeting to order at 10:30 a.m.

Commission Chair Kim asked if any Commissioners have conflicts to the agenda items. Commissioner Harald Barkhoff noted possible conflict with Kua o ka La Public Charter School as the former Governing Board Chair. Commissioner Makalapua Alencastre noted possible conflict with Kua o ka La Public Charter School, her daughter is a teacher at the school.

ACTION: Motion to approve full participation by Commissioner Harald Barkhoff (Takabayashi/Cleary). The motion passed unanimously.

ACTION: Motion to approve full participation by Commissioner Makalapua Alencastre (Takabayashi/Cleary). The motion passed unanimously.

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Executive Director Sione Thompson introduced audience attendees Linda Fehoko and team. He shared the attendees have started charter schools in other states and have interest in Hawaii.

Commissioner Mitch D'Olier arrived at 10:33 a.m.

II. Approval of the October 18, 2019 General Business Meeting Minutes

Commissioner Takabayashi provided amendments to the unapproved minutes that included removal of repeated language and combining the action taken by the Commission in one section of the minutes.

ACTION: Motion to approve the October 18, 2019 General Business Meeting minutes with corrections (Takabayashi/D'Olier). The motion passed unanimously.

Commissioner Mitch D'Olier noted no conflicts to the agenda items.

III. Action on the State Public Charter School Commission's 2018-2019 Financial Audit Report Presented by the Operations Team

Director of Finance and Operations Danny Vasconcellos thanked Commission staff Sora Jin, Gina Shinagawa and Mary Jane Munoz on their work during the audit season. In addition, thanked CW Associates and introduced Managing Partner Teri Fujii.

Fujii introduced Audit Supervisor Gavin Loo who oversaw the audit. Fujii provided a high level report on the Commission's audit which included the management discussion, financial statements, cash on hand, net position, balance sheets, schedule of awards, compliance of federal rules and regulations, the audit findings, and corrective action plan of the Commission.

Commissioner Harald Barkhoff and Fujii discussed state and federal funding and funding paths, such as directly from a program or as a pass through from the Hawaii Department of Education (HIDOE).

Commissioner Mitch D'Olier asked if there are any internal control issues. Fujii referred to the audit findings. Commissioner Barkhoff asked if there are measures in place in regards to the findings. Fujii referenced the corrective action plan that will address the findings. She added that next year's audit will review and identify the status. She noted that an audit ends on June 30th but findings are identified around November which half of the year has gone by before it is identified.

Commission Advisor Lydia Trinidad responded to the pre-k finding and the work of charter schools in the program. She added that the pre-k team tries to hold schools tight but that it can be cumbersome with small charter schools and bids of \$200,000. Fujii added that some charter schools follow the same process as the Commission, single audit, and due to the federal funding will see similar findings. She noted that even though a school does not receive federal funding, it must live by the same rules and regulations.

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Commissioner D'Olier asked if technical support can be provided. Fujii responded they have an educational process that explains the rules and compliance. She added that Chaminade University has an education program for charter schools with a financial session. Commissioner Barkhoff and Fujii discussed charter school audits and federal rules and regulations.

Commissioner Shannon Cleary discussed the limitations some charter school directors have in participating in training opportunities. Thompson discussed the federal programs team and responsibilities in supporting charter schools in areas such as Title I and Comprehensive Support & Improvement (CSI). He added there are reasons and justifications regarding the pre-k findings. Vasconcellos shared the Commission staff has been invited to attend a conversation with Budget and Finance regarding cash management. In addition, invited to attend a presentation from Congressman Case's office on cash management and drawing down funds on the federal level.

Commissioner D'Olier shared his desire to educate schools on the requirements but struggles with how. He discussed other issues such as facility funding.

Commission Chair Kim called for public testimony. No public or written testimony provided.

Fujii commented that this year's audit was easier to get through.

ACTION: Motion to accept the State Public Charter School Commission's 2018-19 Financial Audit (D'Olier/Takabayashi). The motion passed unanimously.

IV. Action on the State Public Charter School Commission's 2018-19 Annual Report

Thompson presented on the State Public Charter School Commission's 2018-19 annual report. He summarized the executive summary and highlighted charter schools' performance data on certain state accountability measures. He stated his recommendation to approve the annual report and to delegate authority to the Executive Director to make corrections and non-substantive changes.

Commissioner D'Olier stepped out at 10:57 a.m. and returned at 10:59 a.m.

Commissioner Alencastre, Thompson, and Data Strategist Jennifer Higaki discussed the Tripod student perception survey and how it was required as part of the state accountability system, Strive HI.

Thompson summarized the charter schools' Financial Performance Framework risk assessment results. He recognized the Performance Team for its school site visit reviews.

Thompson shared about his discussion with Commissioner Barkhoff on suggested edits to the report. He clarified the timeline of the report, which must be submitted to the Board of Education (BOE) and State Legislature. He reiterated his recommendation to approve the report and allow the Executive Director to make corrections and non-substantive changes. He noted that the draft report includes data that needs to be corrected prior to submitting to the BOE. Lau provided background on past Commission actions on the annual report and the tight

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submission timeline. Commissioner Barkhoff acknowledged understanding of the short timeline, as well as the importance of making an informed decision. He praised the staff for doing a good job on the report and noted that his feedback should be taken as suggestions only.

Commissioner Barkhoff inquired why DreamHouse Ewa Beach's approval was mentioned, but no other information about the school appeared in the annual report. Lau responded that the school only opened this year and would therefore appear in next year's report [which will focus on school year 2019-20]. Commissioner Barkhoff asked for more detail about how charter schools are doing on their Value Added goals in the "Academic Performance" section of the report because these are how the Commission measures what charter schools are doing that is special. He noted that the annual report is an opportunity to share about the Value Added work and not just focus on comparing the academic outcomes of charter schools with those of other public schools. He also suggested including more information in the executive summary in order to increase the specificity of different statements about charter school performance.

Regarding the endnote noting that one charter school had not submitted its financial audit report at the time of publication of the draft annual report, Commissioner Barkhoff suggested adding an explanation as to why the school did not submit the document. Thompson responded that Commission staff chose to focus on the facts of the situation and did not want to misrepresent the school's reasons for not submitting its audit report by the deadline. He added that the school did end up submitting the report late and that the school's audited financial information would be added to the annual report before the final draft is submitted to the BOE.

Commission Advisor Trinidad wondered if there is an opportunity for Commission staff to increase communication with charter schools and give schools a chance to review their data in the annual report. Thompson clarified that nearly all of the data in the annual report are for Strive HI measures and are already made publicly available by the DOE. He shared that, by law, it is the schools' annual report and that it has been Commission staff's responsibility to roll it into a big report, but that, in his experience, it is more powerful when schools create their own annual reports. He said that this annual report includes information about individual charter schools in order to fulfill the statutory requirement. He suggested referring back to the Performance & Accountability Committee to see if charter schools are able and have the desire to develop their own reports.

Commissioner Barkhoff discussed maintaining a transparent drafting process for the annual report by ensuring that all commissioners have an opportunity to read the final version and confirm that it accurately reflects the Commission and staff. Commission Chair Kim noted that the recommended motion was to authorize the Executive Director to make corrections and non-substantive changes and invited schools to open dialogue with Commission staff if needed, but also stressed the need to avoid slowing down the finalization of the report. He agreed with the importance of transparency and for schools to review the report and have a conversation with staff if necessary. Commissioners discussed the recommendation.

Commissioner Barkhoff shared a concern that, if the report is the Commission's, there should be an opportunity for all commissioners to discuss it together. Commission Chair Kim responded that if the Commission chooses to approve the draft, the discussion does not end here. He shared if there are serious or significant concerns on what is being presented, it can be an

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ongoing preparation for the next year's report. Commissioner Barkhoff asked that the Commissioners see the revisions prior to submitting to the BOE and will leave his suggestions with the staff. He shared his support to the process. Thompson shared the annual report is a high level report and could produce other reports to address the discussion. Commissioners discussed next year's report and process.

Commissioner Alencastre shared the report is pretty amazing and asked to continue dialogue on what the Commission uses the information for, particularly in a deeper and more comprehensive way, and how the information is shared out.

Commission Advisor Trinidad suggested including accreditation statuses. Lau responded that this information used to appear in the annual report, but that the Commission stopped including it based on feedback from schools, which pointed out that accreditation is not required and that charter schools do not receive equal resources or support to go through the process. Commission Chair Kim noted that if the Commission put accreditation statuses on its website, there is potential for the public to draw a negative conclusion based on that information alone.

Commission Chair Kim called for public testimony. No public or written testimony provided.

ACTION: Motion to approve the State Public Charter School Commission's Annual Report for the 2018-19 school year and allow the Executive Director to make corrections and non-substantive revisions (D'Olier/Takabayashi). The motion passed unanimously.

- V. Action on the Request from the Attorney General Office Requesting Assistance of the State Public Charter School Commission in the Payment of a Settlement of a Civil Lawsuit Involving Waimea Middle Public Charter School by Withholding Allocated Funding to Pay for Settlement

Commission Chair Kim provided an overview of the settlement of a civil lawsuit and the Attorney General requesting the Commission to withhold the amount of the settlement from the charter school's per pupil to pay for it. He added the Commission will enter into executive session to discuss the settlement with its Deputy Attorney General. He stated there are two questions, whether the school should pay for it and whether the Commission should be involved.

Thompson suggested allowing testimony and presentation from the school's representatives. He introduced Governing Board Chair Joe Uno and School Principal Janice English. Uno stated the school is here to advocate for the school and its students.

English shared her background with the school and time served as Principal. She strongly requested that the Commission respond with the school, as one voice, to reject the settlement and not withhold the \$75,000 from the per pupil allocation from school year 2019-20. She stated the school has requested the transcript for the settlement and was told by the Deputy Attorney General that there is none as it was settled using mediation. She discussed the breakdown in communication between the parties; the Deputy Attorneys General involved in the settlement; the school's Detailed Implementation Plan (DIP), specifically the facility maintenance by the DOE; and the charter school contract section pertaining to the State of Hawaii's Risk Management Program.

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Commissioner D'Olier and English discussed the request from the school which was to dispute the settlement. Commissioner Barkhoff asked to clarify if the school was part of the settlement. English shared there has been multiple Principals and that the communication may not have been clear. She was informed by Deputy Attorney General Ryan Akamine of the meeting but cannot confirm that she was formally or informally invited. She added that Deputy Attorney General Richardson was the one who signed the contract.

Commissioner Barkhoff and English discussed the landlord of the school, HIDEOE. Commissioner Alencastre asked if there has been any progress with the risk management fund and what the liability is for charter schools. Uno shared the school's perspective which was the school was not a part of the settlement and that the State of Hawaii's Risk Management Program would cover in the liability issue. He referenced the charter contract.

Commission Chair Kim asked if the school or the school's Deputy Attorney General was represented in the mediation which led to the settlement. Uno responded no. Commissioner Barkhoff and English discussed the maintenance procedures which included submitting a request to DAGS for the repair. She discussed the repairs to the bench and the light.

Uno discussed the greater issue for charter schools in regards to liability insurance. He discussed that any slip and fall could bankrupt a charter school if the school cannot rely on the State's Risk Management program to pay for the lawsuits. He stated this settlement, \$75,000, is taking away a teacher for the school. He said schools exist to teach students and risk management is there to take care of these issues. Commission Chair Kim and Uno discussed the settlement. Uno shared the per pupil funding is for education and that the Attorney General's office has made the determination that the Commission has the legal ability to withhold the per pupil funds. Commission Chair Kim said the payment decision was rolled into law which states the school has to pay. He asked whether the school was involved during the discussion and aware that the payment would become law. Uno responded no.

Commission Chair Kim asked if there is a document on who is responsible for the maintenance. English responded yes. Commissioner Barkhoff said it must be complicated as a conversion school. Commissioner D'Olier and English discussed the repairs in response to the settlement.

Commission Chair Kim called for public testimony. No other testimony provided. He clarified that the earlier testimony did not follow the 2-minute testimony requirement to allow more information.

Deputy Attorney General Ryan Akamine responded to the testimony by the school that represented the school's participation in the mediation preceding the lawsuit. He clarified that the former Principal and School staff attended the first session. At that point, it was discussed that their attendance was not needed since the school representatives at that time were flying back and forth. He shared he had been in contact with David Gibson regarding the mediation and at some point the possibility of the school being responsible as the practice of the legislature has been that agencies and divisions were responsible for the settlements.

Commissioner Barkhoff asked if the school was informed of the amount prior to the settlement and if it was agreed upon. Deputy Attorney General Akamine responded he does not know if

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the school explicitly agreed but it was the amount recommended by the mediator and when informed received no objection. Commissioner Barkhoff asked if there was any discussion that the settlement payment would come from the school's budget. Deputy Attorney General Akamine responded he informed Gibson based on the legislature's practice. Gibson shared the past conversations have been cordial and supportive but did not recall the information about the settlement being the responsibility of the school based on legislature's past practice. He shared the discussion regarding who would be responsible for the payment in reference to HB94. He shared English has documentation of emails with DOE Risk Management on who would be responsible for the payment. He discussed his belief of the responsible parties for the maintenance of the property. Commissioner D'Olier and Gibson discussed the agreement between the DOE and school during its original application and current charter contract that references liability coverage.

Commissioners discussed the settlement and the law that requires the school to pay. Commission Advisor Trinidad shared her assumption is that the school is covered by the State of Hawaii and discussed the statement of self-insurance process.

Commission Chair Kim called for public testimony. No public or written testimony provided.

ACTION: Motion to enter into executive session at 11:49 a.m. (Cleary/Takabayashi). The motion passed unanimously.

ACTION: Motion to exit out of executive session at 1:10 p.m. (Cleary/Takabayashi). The motion passed unanimously.

Commission Chair Kim recessed at 1:11 p.m. and reconvened at 1:20 p.m.

VI. Executive Session

This portion of the meeting is a closed meeting under 92-4 and 92-5(a)(4), Hawaii Revised Statutes

- A. To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities
 1. Settlement of a Civil Lawsuit Involving Waimea Middle Public Charter School

Commission Chair Kim reported in executive session, the Commission conferred with its Deputy Attorney General on the legal obligation of the settlement. He discussed the questions and concerns raised by the settlement and overall impact and risk for charter schools. He shared possible next steps which included meeting with the Board of Education and Legislators. He added that this settlement has opened the Commission's awareness of the problem for charter schools. He said as a result of the discussion the Commission staff will initiate its Intervention Protocol by issuing a Notice of Concern (NOC). This NOC allows 14 days for the school to respond with their resolution and if the issue is not resolved, the Commission is prepared to withhold the funds from the December 1st per pupil allocation until such time it is resolved. He encouraged the school to pay the settlement as the Commission works on the liability issues as a whole. He reminded the school that if a NOC is not resolved, a Notice of Deficiency can be issued which is a negative piece in a school's performance.

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ACTION: Motion to postpone decision regarding Waimea Public Charter School (Takabayashi/Barkhoff). The motion passed unanimously.

Commissioners and Deputy Attorney General Gregg Ushiroda discussed the concerns raised and the impact for charter schools.

Commission Chair Kim noted Governing Board Chair for Kona Pacific Public Charter School is under time constraint and would like to take up the agenda item now and delay the Committee reports till after.

ACTION: Motion to allow the Chairperson flexibility to rearrange the agenda items in accordance with time (Takabayashi/Cleary). The motion passed unanimously.

Commission Chair Kim also noted two schools have requested to postpone their agenda items until the December meeting. Commission Chair Kim called for public testimony. No public or written testimony provided.

ACTION: Motion to postpone agenda items X. Action on Amendment Request to the Exhibit A, Educational Program, of the State Public Charter School Contract for Kua o Ka La New Century Public Charter School Presented by Performance Team and XI. Update by the Reconstituted Governing Board A. Ka Waihona o ka Na'auao Public Charter School to the December 2019 General Business Meeting (Takabayashi/Cleary). The motion passed unanimously.

- X. Action on Amendment Request to the Exhibit A, Educational Program, of the State Public Charter School Contract for Kua o Ka La New Century Public Charter School Presented by Performance Team
- XI. Update by the Reconstituted Governing Boards
 - a. Ka Waihona o ka Na'auao Public Charter School
 - b. Kona Pacific Public Charter School

Zachary Hosler, Governing Board Chair for Kona Pacific Public Charter School, provided an update to the Commission since the reconstitution of the governing board in June. He shared some of the issues the governing board inherited during the reconstitution which included the former executive director leaving, an organizational structure with two director positions, a projected school year 2019-20 budget that was in need of a complete overhaul, financial liability, a campus lease that was not approved by the Deputy Attorney General, and list of concerns from the Commission. He shared the updates and outcomes on the 1) administration structure and lack of operation management; 2) budget; 3) enrollment discrepancy; 4) campus lease; 5) concerns of the Commission which included human resources records/policy; digital documents and website passwords; and splintered community.

Hosler shared at the end of the day it comes down to the kids. Commissioner D'Olier thanked the governing board for their hard work and appreciation for the update. Hosler thanked the

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Commission for the support. Commission Chair Kim and Hosler discussed his decision to join the governing board and if Hosler would do it again.

Commission Chair Kim called for public testimony. No public or written testimony provided.

Commissioner Alencastre referred to the presentation regarding the proposal enrollment payback and asked if the Commission needs to approve anything. Thompson responded no action is required for approval but to send any comments directly to him and it will be shared with the school's governing board chair. He reminded the Commission that the money being transacted are from today's children for actions taken seven to 10 years ago. He shared his recommendation would be for the governing board to uphold the commitment to pay back the Commission and once the Commission feels the school is stable, redistribute the funds back to the school. He stated the process could also include pursuing the responsible parties for the actions taken but will be brought up to the Committee for further discussion. Commissioner Barkhoff shared appreciation of the updates and suggested having periodic updates.

Commission Advisor Trinidad shared if the school received payments for students that did not exist, should the money be distributed to all charter schools. Commissioner Takabayashi responded that the students today are being deprived of the funds and would be giving it back to the school. Commission Chair Kim pointed out the other argument that those funds came out of the pot that would have gone to all the schools at that time. Thompson suggested to discuss it further in committee.

VII. Administration & Operations Committee Report

Commissioner Takabayashi reported at the last Administration & Operations Committee, the Committee met and approved minutes and reviewed the Commission's financial quarterly report.

Commission Chair Kim called for public testimony. No public or written testimony.

VIII. Applications Committee Report

Commissioner Cleary reported at the last Applications Committee meeting, the Committee approved minutes and received an update on the Applications Cycle and Request for Proposal.

Commission Chair Kim called for public testimony. No public or written testimony.

IX. Performance & Accountability Committee Report

Commissioner Alencastre reported at the last Performance & Accountability Committee, the Committee approved minutes and received an update on the charter school 2018-19 Organizational Performance Framework.

Commission Chair Kim called for public testimony. No public or written testimony.

XII. Action on Chairperson and Vice Chairperson of the Administration & Operations Committee

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Commission Chair Kim recapped at the last meeting, Commissioner Takabayashi was elected Vice Chair of the Commission which opened up a vacancy as the Chair of Administration & Operations Committee. He recommended the Vice Chair, Commissioner Barkhoff, to be the Chair of Administration & Operations Committee.

Commission Chair Kim called for public testimony. No public or written testimony provided.

ACTION: Motion to approve Commissioner Harald Barkhoff as Administration & Operations Chairperson (Kim/Takabayashi). The motion passed unanimously.

Commission Chair Kim stated the action on the Vice Chairperson will be brought back to the Commission in December.

XIII. Update on the National Association of Charter School Authorizers Conference by Commission Attendees

Commissioner Alencastre shared appreciation for the opportunity to attend and connect with Commission attendees. She highlighted her takeaways which included connecting with other authorizers, hearing that other authorizers are dealing with similar issues, and listening to the keynote speaker.

Commission Chair Kim recognized and congratulated Commissioner Alencastre on her Lifetime Achievement Award from the 50th Annual National Indian Education Association (NIEA) Convention and Trade Show.

Commissioner Barkhoff shared his takeaways which included the breakout sessions that focused on charter school renewals, performance evaluation, and equity pause. He shared appreciation of the conference and hope to implement some of the takeaways. He praised the conference organization.

Commission Chair Kim shared his largest takeaway was conditional renewal. He discussed the process which included conditions set for the renewal and if it's not met, the school surrenders its contract. He shared it's something to look into.

Commissioners discussed the conditional renewal, concerns with setting conditions, negotiating goals, and need for further dialogue.

Commission Chair Kim called for public testimony. No public or written testimony provided.

XIV. Update on the Aurora Institute Symposium by Commission Attendee

Commission Chair Cleary recapped the Aurora Institute Symposium (formerly known as iNACOL) which focused on competency, culturally relevant, and federal policy. She provided highlights of the symposium which included the conference speaker and breakout sessions which she was able to share out the work of Hawaii schools. She added the shift in the conversation has changed from subject competency to ensuring students are prepared. Commission Chair Kim

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shared his attendance to the conference two years which focused on competency and personalized learning.

Commission Chair Kim called for public testimony. No public or written testimony provided.

XV. Executive Directors Report

Thompson reported the staff will continue working on its annual report.

Commission Chair Kim called for public testimony. No public or written testimony provided.

XVI. Adjournment

Commission Chair Kim adjourned the meeting at 2:25 p.m.