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### INFORMATIONAL SUBMITTAL

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DATE: May 8, 2014

TO: Catherine Payne, Chairperson

FROM: Mitch D’Olier, Chairperson  
Applications Committee

AGENDA ITEM: Update on Decision-Making Stage of the Application Cycle and Commissioner and Applications Committee Questions Regarding Current Charter School Applications

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#### I. DESCRIPTION

Information on the decision-making stage of the current application cycle and answers to Commissioner questions regarding current charter school applications.

#### II. DECISION-MAKING STAGE

While it is the Evaluation Team’s duty to evaluate and develop a recommendation on each application for a new charter school, and the Applications Committee holds a hearing to consider these recommendations and in turn make recommendations to the full Commission, the Commission is solely responsible for deciding whether to approve or deny each application. It is important for Commissioners to keep in mind, as the authorizer, that the purpose of the application process is to approve only high-quality charter applications and deny those that do not meet the high standards set forth in Request for Applications (“RFA”) and criteria. Importantly, the purpose of the application process is not to assist applicants in refining and finalizing their proposals; this is one of the fundamental reasons for not accepting and considering new information that was not originally a part of the application, as will be discussed further later in this submittal.

The rigor and seriousness of the application process is evidenced by the amount of time that the Evaluation Teams have dedicated to the thorough and careful evaluation of applications and that other staff members have dedicated to review of the resulting materials produced by the Evaluation Teams and applicants. The two Evaluation Teams were comprised of six Commission staff members

and four external evaluators. Additionally, Operations staff has been involved in managing the process from its inception and has developed recommendations on each application after a thoughtful review of all relevant materials.

The Evaluation Teams developed Recommendation Reports, which recommend approval or denial of applications. Each applicant had an opportunity to provide a written response (“Applicant Response”) to its Recommendation Report, and the Evaluation Teams had an opportunity to provide a written rebuttal (“Evaluation Team Rebuttal”) to any Applicant Response. The Recommendation Report, Applicant Response, and Evaluation Team Rebuttal form the Recommendation Packet.

**Staff Recommendation.** In developing the recommendations to the Committee, staff was mindful of the application evaluation process and scope of the Commission’s review, as set forth in the RFA: “The Commission’s Application Committee will consider the Recommendation Packet and public hearing testimony and make a recommendation to the full Commission regarding approval or denial of each application. At its General Business Meeting, the Commission will consider the Recommendation Packet, public hearing testimony, and the recommendations of the Commission’s Application Committee and decide whether to approve or deny each application. The Commission will not review applications or interview applicants but will rely on the Evaluation Team’s review and recommendations as to these elements.”

While the Recommendation Report, Applicant Response, and Evaluation Team Rebuttal cover a variety of issues, staff has attempted to focus on the few issues that appear to be the most significant and would have the biggest impact on an applicant’s ability to successfully start and operate a high-quality charter school. The omission of an issue from the staff’s review is not meant to indicate that the staff believes that the issue was resolved one way or another, only that it is not a major point of contention or is not a critical point that warrants further analysis in the submittal. For each key point, staff reaches a conclusion for the Committee’s and Commission’s consideration, but at a minimum, the inclusion of these points in the submittal are intended to draw out the key points for an approval or denial of the application.

**Scope of Commissioner Review.** Applicants were advised at the beginning of the application process that the application should be a complete and accurate depiction of their proposed plan, and that no new information would be accepted at later stages in the application process. Responses to Requests for Clarification and answers given during the capacity interview needed to be clarifications, not new information. This is done because if applicants are constantly making significant changes to their plan during the application process, it makes it difficult for Evaluation Teams to provide a holistic review of the applicant’s overall plan.

The RFA states, “The Commission shall disregard any new information or information that differs from what the applicant provided in its Narrative Proposal. For example, if the applicant submits new or different information in its public hearing testimony or Applicant Response, the Commission will not consider this information in making its decision. Commission staff and the Evaluation Team will provide the Commission with guidance on what information is considered new or different from the applicant’s Narrative Proposal.”

Because this was what was communicated to all applicants, and applicants submitted their application with this understanding, Commissioners should not consider new information that was not originally a part of the application in their review and decision-making. New information is

specifically flagged in the Evaluation Team Rebuttal and, where relevant, is noted in the staff submittal. Commissioners can consider whether the Evaluation Team has an adequate basis for denial of an application. This includes considerations like whether the Evaluation Team gave enough weight to certain aspects of the application or whether the applicant's response points out significant information that the Evaluation Team overlooked.

**Decision-Making Procedure.** The Commissioners should make a decision to approve or deny all applications at this meeting. There is no option to remand to the Applications Committee for further deliberation. The main reason for this is because Commissioners should not be considering new information in their decision-making, so Commissioners should be able to make a decision based on the information before them. Applicants should have provided all relevant information in their applications so that the Evaluation Teams could do a holistic review. The Evaluation Teams will not be reconvened. If Commissioners believe that the Evaluation Teams did not give enough weight to certain aspects of the application or that the teams overlooked significant information and that these factors are significant enough to warrant disagreement with the Evaluation Team and Applications Committee's recommendations, Commissioners can vote accordingly.

### III. COMMISSIONER AND APPLICATIONS COMMITTEE MEETING QUESTIONS

Staff asked Commissioners to submit in advance questions relating to the applications that may require staff research. Questions asked during the Applications Committee's April 24, 2014 meeting are also included here. To ensure public deliberation and to inform Commissioners who were not present at the Applications Committee's April meeting, the questions and answers are shared in this submittal. Questions are organized by application, alphabetically.

#### A. Hawaii Arts Repertoire & Tech (HART)

##### **Where is the college campus "Plan B" site in the HART application?**

The application states that the Plan B site is "a portion of space being vacated by Hawaii Community College" that is located at 81-964 Halekii Street, Kalakekua, Hawaii. The application states that it is anticipated that the buildings would be vacated. The application does not provide an approximate square footage or whether the space could accommodate the anticipated opening enrollment of 200 students.

##### **How many certified instructors are listed in the application?**

The application lists four teachers for core subjects and one teacher designated as "special" for each division, middle and high school, for a total of ten teachers in Year 1 for 200 students. Staffing would increase as enrollment increases. The application indicated that all teachers for core subjects will work toward Highly Qualified status. It was unclear whether the "special" teachers would be required to be certified.

#### B. iLEAD Kauai Charter School

##### **"What does the California data on student achievement look like for the other two iLEAD schools?"**

iLEAD Development operates two charter schools in California: iLEAD Santa Clarita Valley International ("iLEAD SCVI") and iLEAD Lancaster. iLEAD Development's first school, iLEAD SCVI has performed lower than district and state averages overall. The Academic Performance Index ranking

indicated that iLEAD SCVI performed in the bottom 30% of all California public schools and in the bottom 20% of all comparable public schools in 2012-13. Further, iLEAD SCVI's scores indicate a lack of growth.

Because iLEAD Lancaster opened in 2012, data is limited regarding its academic performance. The available data indicates that iLEAD Lancaster performs lower than district and state averages in all areas, except English language arts when compared to district schools.

**Who will be on the ground in Hawaii starting up iLEAD Kauai?**

It appears that the CMO and proposed school leader will not be in Hawaii during the majority of the start-up period. It is unclear whether anyone from the applicant group will be in Hawaii during the entire start-up period.

C. IMAG Academy

Commissioners did not ask any questions about this application.

D. Ka'u Learning Academy

**If approved, when would Ka'u Learning Academy ("KLA") open its doors? Is there an expedited start-up process?**

Any approved applicant from this cycle would open its doors at the beginning of the 2015-2016 school year. There is no expedited start-up process.

**At which Department school was the proposed school director of KLA employed?**

Kathryn Tydlacka worked at Naalehu Elementary School as a 6th grade teacher until 2013. She is not currently teaching.

**How are the public schools in the Kau area doing academically?**

Naalehu Elementary, the elementary school in Kau, ranks among the bottom in the state, with 39% proficiency in Reading and 45% in Math, according to the Strive HI Performance System.

**How will the virtual component work, especially in regard to the 7th grade transition? Which grades and how many in each grade will be able to use the virtual component?**

KLA offers a virtual component for grades 3-6, capped at 30 students total in Year 1. We still have some questions as to how students in both the brick-and-mortar and virtual programs will transition out of the school after 6th grade, which we recommend that the applicant be required to address during the start-up period.

**Where is KLA's facilities located?**

The application states that the facility had "once been a golf course clubhouse in Discovery Harbour (Naalehu)." The clubhouse appears to be located at 94-1581 Kaulua Circle, Naalehu, Hawaii.

**What is the applicant's plan to balance the projected deficit of approximately \$100,000 in the year zero projected budget?**

The applicant is prepared to forgo the salaries of the proposed school director and business manager in the first year, if necessary, to make up for the deficit.

**Which “Castle Foundation” has KLA solicited for a grant?**

The applicant stated at the Applications Committee meeting that it applied for a grant from the Harold K.L. Castle Foundation but was advised to reapply if its application is approved by the Commission. A Commissioner familiar with the foundation stated that he was not aware that the foundation provided applicant with this response, but that he would verify this.

**How will KLA deliver special education services?**

The applicant stated at the April Applications Committee meeting that they have spoken to several special education teachers and have someone on the Mainland interested in joining KLA. Staff notes that the application references a three-tiered process for identifying whether a student needs special education services.

**What does the Fournier Center do?**

At the Applications Committee meeting, the applicant explained that the Fournier Center is a nonprofit organization that originally focused on empowerment of families and children, especially for abused children. Recently it has shifted its focus to direct educational services, developing non-profit fundraising, and helping organizations implement fundraising strategies. The headquarters of Fournier Center are located in Illinois, but it was also registered as non-profit corporation in Hawaii. The applicant also clarified that Mark Fournier, KLA’s governing board president, is the founder of the Fournier Center.

**Will the operational café income go towards KLA?**

The applicant explained at the Applications Committee meeting that 100% of the café’s net revenue goes toward KLA, as no one gets paid for working at the café and the owner of the building has been very generous.

E. Montessori of O’ahu Public Charter School

**“Is there a public charter Montessori school anywhere else in the country?”**

Yes, public charter schools that use the Montessori approach are found in several states. A brief online search conducted following the applicant’s capacity interview found that at least nine states, including Arizona, California, Oregon, Maryland, Massachusetts, Minnesota, North Carolina, New Hampshire, and South Carolina, in addition to the District of Columbia, have Montessori public charter schools. While further research found some of the schools from the online search run private preschool programs, the preschool programs are separate from the charter school, and some of the private preschool programs are tuition-free. However, none of the schools identified give admissions preference to students with previous Montessori experience, and some that run a separate private preschool program even explicitly state in their admissions policies that enrollment in the private program does not afford preference for admission into the charter school.

Following the Committee’s April 24, 2014 meeting, in order to provide some context, staff researched over 150 of the approximately 450 public Montessori schools in the United States. About half offered programming before kindergarten. Of these, a dozen ran a private pre-kindergarten program in conjunction with the school; but only six instituted some kind of an enrollment preference. These enrollment preferences varied greatly—from a tuition-free preference to city residents to a school lottery weighted preference for children attending program improvement schools (such as Head Start). Two of these schools had enrollment preferences that were similar to that envisioned by the applicant,

but an important difference is that students in the areas where these two schools were located have access to other public Montessori education.

**The Applications Committee asked questions regarding delivery of special education services using the Montessori method.**

The Evaluation Team explained that the applicant could not provide evidence of success in special needs students using the Montessori Method, with the exception of one anecdotal example from 2004 that referenced the positive experience of a highly-functioning autistic four-year old. The applicant explained that under the Montessori method, all students receive individualized instruction and that differentiation is embedded in the curriculum.

**The Applications Committee asked questions regarding the proposed school's enrollment preferences.**

The preferences discussed at the Applications Committee meeting were the enrollment preference for students that have one year of prior Montessori experience and an enrollment preference for children of governing board and working group members. Each will be addressed separately below.

**The Applications Committee asked questions regarding the proposed school's enrollment preference for students who have one year of prior Montessori experience.**

The applicant explained that they developed the enrollment preference for students with prior Montessori experience because the preference is used at other Montessori charter schools and is in the guidelines set by the Association Montessori Internationale ("AMI"). There was disagreement between the applicant and the Evaluation Team about whether Montessori public charter schools in other states had this preference. The applicant stated that, based on their research, authorizers in other states allow this preference. However, the Evaluation Team was unable to find a similar preference in other Montessori public charter schools.

A Commissioner expressed concern with how the Montessori experience preference would act as an actual (even if unintentional) filter for most special education students and that those students would not be able to attend the proposed school.

There was a discussion about how committed the applicant was to this preference and whether the applicant would be willing to forego the enrollment preference for prior Montessori experience. The applicant stated that this preference was fundamental and they were not willing to compromise on it because it was necessary to create an authentic Montessori school. The applicant stated that without enough students with prior Montessori experience, the teacher would have to revert to traditional classroom teaching. In particular, applicant stated that the kindergarteners need to have three years of experience because the children with experience bring the ones without experience in and help them to operate within this system. The applicant group also stated that the last thing they would want is to be approved with compromises that do not prove to be successful because they did not stay true to the Montessori method.

Staff notes that an enrollment preference based on prior experience at a private program or allowing a student in a private preschool to automatically get a seat in an attached public school would disqualify a charter school from receiving federal Charter School Program ("CSP") start-up grants. The 2014 Nonregulatory Guidance for the CSP allows for weighted lotteries in only three limited circumstances, does not allow a preference like prior Montessori experience, and explicitly prohibits an automatic bypass of the lottery for private preschools applying for an attached public

school. This is significant for two reasons: first the federal government is very strongly signaling that these kinds of preferences are not desirable; and second, if the applicant were relying on the CSP grant as a part of its revenue, it would not receive a grant based on the information provided in its application. If so, this would have a significant negative impact on its proposed budget and financial picture.

**The Applications Committee asked questions regarding the proposed school’s admissions preference for children of governing board members and working groups.**

The applicant stated that it based governing board and working group preference on the same research as the prior Montessori experience preference. The Evaluation Team was unable to find the same preference in the admission and enrollment policies of other Montessori public charter schools, so the same disagreement exists here as for the prior Montessori experience preference.

A Commissioner expressed concern about this enrollment preference because it could appear that a group of people sending their children to private school decided that they could use public money and open a public school instead.

Applicant was also questioned by Commissioners as to whether it was willing to abandon the governing board and working group preference. There appeared to be some disagreement among applicant group members and the parents on the governing board itself on this issue. The applicant stated that parents on the governing board are willing to forgo this preference, but one of the applicant group members did not think that the preference should be abandoned. A different applicant group member stated that the member would be willing to give up the governing board and working group preference, but would not give up the prior Montessori experience preference.

**The Applications Committee asked questions regarding the budgetary relationship between the charter school, the nonprofit organization, and the private preschool school.**

The applicant stated that it plans to comingle preschool students, which will be charged tuition, with the kindergarteners at the charter school. Applicant wanted to be transparent and very clear that it wanted to have preschoolers and kindergarteners in the same classroom with the same teacher and it did not want to resort to exploiting a technical loophole to get around this by doing things like having an adjoining kindergarten and preschool classrooms with an open door between the two classrooms. The Evaluation Team noted that there are ethical concerns with the model the applicant proposed. The applicant stated that it is willing to address those concerns with the State Ethics Commission and be bound by the State Ethics Commission’s decision.

A Commissioner expressed concern with how the teacher’s salary would be paid when the teacher was teaching both private preschoolers and public school students.

Applicant was also asked whether it would be willing to compromise on the Montessori model. The applicant stated that it would not compromise if it will affect the quality of the education it provides.

**The Applications Committee requested a copy of the statute that allows the Commission to grant enrollment preferences.**

The relevant statute is HRS Section 302D-34(b), entitled “Enrollment,” which provides in pertinent part:

“(a) A public charter school shall not discriminate against any student or limit admission based on race, color, ethnicity, national origin, religion, gender, sexual orientation, income level, disability, level of proficiency in the English language, need for special education services, or academic or athletic ability.

(b) A start-up charter school:

...

(4) May give an enrollment preference 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 charter school's application and as approved by the charter school's authorizer;

(5) May give an enrollment preference to students enrolled in the charter school during the previous school year and to siblings of students already enrolled at the charter school; and

(6) May give any other enrollment preference permitted by the charter school's authorizer, on an individual charter school basis, if consistent with law;

provided that nothing in this subsection shall preclude the formation of a start-up charter school whose mission is focused on serving students with disabilities, who are of the same gender, who pose such severe disciplinary problems that they warrant a specific educational program, or who are at a risk of academic failure.”

Staff also directed Commissioners to the March 27, 2014 submittal regarding Action on Kanuikapono Public Charter School’s Request for Approval on School’s Enrollment Preference Policy, since it contained a discussion of the enrollment statute. In this submittal, the school requested an enrollment preference that would give eligible students better odds in its lottery based on residency in the Anahola area and/or Title I eligibility. There was an examination of whether the geographic preference had a disparate impact on suspect classifications (like race or ethnicity). There was also an examination of the current state of the laws surrounding the income preference and whether serving at-risk students was a part of the school’s mission. Based on the discussion in the submittal, the Commission decided to approve the school’s geographic preference and deny the school’s request for an income preference.

The submittal is available at:

[http://sharepoint.spcsc.hawaii.gov/SPCSC/Documents/V\\_Commission%20Submittal%20for%20Kanuikapono%20Enrollment%20Preference%20THdraft.pdf](http://sharepoint.spcsc.hawaii.gov/SPCSC/Documents/V_Commission%20Submittal%20for%20Kanuikapono%20Enrollment%20Preference%20THdraft.pdf)

F. North Shore Middle School

**“Why [are] the evaluation [results] for North Shore [Middle School] so different from last year? [The applicant] met the standard in most areas last year, but none this year.”**

The current RFA and process are different from previous application cycles; therefore, the application for North Shore Middle School (“NSMS”) cannot be judged on nor compared to the

application or evaluation results from the previous cycle. Staff communicated this to all applicants early in the process. With that said, it is possible that with the increased rigor of the application, criteria, and process, the Evaluation Team found deficiencies in the proposal not previously identified, contributing to more areas not meeting the standard for approval.

**“Are there strong educators involved in the [NSMS] effort?”**

Proposed school leader Dali Pyzel is the only applicant group member with experience in the K-12 setting. Monique Mironesco has experience teaching, developing online courses, and curriculum development; however, that experience is in post-secondary education.

**The Applications Committee asked questions regarding the applicant’s claims that the Evaluation Team was incorrect in its evaluation of its capacity.**

The Evaluation Team explained it determined capacity through the application submitted and the capacity interview. The first piece of evidence that indicated a lack of capacity was the inadequacy of the academic, organizational, and financial plans for the proposed school. In addition to the inadequacy of the proposed school’s overall plan, there were inconsistencies internally within the application itself. The Evaluation Team explained that the capacity interview was for the applicant to demonstrate its capacity. The Evaluation Team, however, felt that the applicant failed to sufficiently answer many of the questions posed by the Evaluation Team.

Because many of the applicant’s arguments seem to revolve around the evaluation criteria, especially as it relates to capacity, staff has attached the evaluation criteria to this submittal as **Exhibit A**. The evaluation criteria was released to the public and all applicants at the same time the RFA was released in September 2013. Note that the evaluation criteria for capacity focuses on evidence of capacity. As such, the applicant should demonstrate or provide evidence that it has capacity. Sufficient capacity is not determined by a listing of qualifications or certifications alone. Capacity can be demonstrated through things like the submission of a complete and comprehensive application and the capacity interview.

**The Applications Committee asked questions regarding the national expert that the applicant referenced in its testimony.**

The applicant stated that its nationally-recognized back office consultant, the Charter School Management Corporation (“CSMC”), noted that this application is strong, but the applicant did not provide the criteria CSMC used in making such a determination or how it evaluated the application. CSMC’s website provides that it can provide school development support as one of its services, which includes training and support to launch a school. Staff notes that CSMC has a business interest in an approval of the NSMS application since it would have a contract with the proposed school, if approved.

**The Applications Committee asked questions regarding the federal CSP grant for which the applicant applied.**

The applicant stated it received excellent scores on a CSP grant it applied for last year. Staff conducted additional research on applicant’s CSP grant application and has concluded that it is difficult for anyone to ascertain with any certainty whether the applicant’s scores can be considered “excellent” since the scores of all applicants were not released. The U.S. Department of Education (“USDE”) only released the scores for the applicants that received the grant.

In 2013, 71 groups applied for CSP grants; the top 16 ranked applicants were recommended for funding. The lowest score that USDE funded was 84. Applicant scored 76. While this is an eight point difference, it is difficult to say how close applicant was to receiving the grant.

To provide some context, staff has provided a comparison chart below showing the average scores of Malama Honua, an applicant approved by the Commission last year, with the average scores of the applicant. The result and scores of NSMS’s CSP grant application do not translate to the evaluation of its charter application in this process because the purposes and criteria of the applications are different. Nevertheless, staff would like to make a couple of observations. The applicant’s scores showed weakness in the areas of Quality of Personnel, Management Plan, and Strategy for Achievement and strength in the area of Community Support, which are similar to the Evaluation Team’s evaluations. The applicant received perfect or near perfect scores in areas like Rural, SPED, ELL, Disadvantaged Students, Flexibility, Military Families, and Promoting Diversity. The areas that the applicant scored well in are allocated less points and do generally have more to do with the population the applicant is planning to serve than with the applicant’s abilities or plans. The applicant scored well in the Quality of Curriculum area, but it is unclear whether the grant evaluation uses criteria similar to the Commission’s evaluation criteria.

The applicant has also stated that it did not receive a grant because it did not have an approved charter contract. Staff notes, however, that at least one other applicant for the same grant (the Maryland Eastern Shore Charter Alliance) was awarded a CSP grant, although it also had not received approval from its authorizer and did not have a performance contract included in its CSP application.

Criteria	Total Points Possible	Hawaii Education Council (Malama Honua’s affiliated non-profit)*	NSMS*
Quality of Personnel	22	20.67	15
Management Plan	18	17.67	12
Performance Contract	16	10	2
Quality of Curriculum	15	15	14
Strategy for Achievement	15	14	11
Community Support	8	6	8
Competitive priority 1: Rural/SPED/ELL	4	4	4
Disadvantaged Students	3	3	3
Flexibility	3	2.67	2.33
Comp Priority 3: Military Families	3	0	3
Comp Priority 2: Promoting Diversity	2	0.67	1.67
<b>Total</b>	<b>109</b>	<b>93.68</b>	<b>76</b>

\* average score of 3 peer reviewers

Staff notes that the CSP grant is competitive and only about 20% of applicants are awarded each year. The applicant explained that it would fundraise should it not be awarded the CSP grant.

Because of this and the size of NSMS's CSP application, it is not attached to this submittal, although it is available upon request.

**The Applications Committee asked questions regarding the staffing plan.**

The applicant explained that its math and reading specialist will run the morning workshop while the regular teachers have prep time; those teachers would start at a later time. A Commissioner expressed concern about collective bargaining implications, the base teacher salary used in the budget being below the average teacher salary, and the schedule not being in compliance with the current master collective bargaining agreement. In response, the applicant stated that the budget reflects an increase in salary relative to the increase in work time and that the application discusses a supplemental collective bargaining agreement; however, the applicant did not directly address the concern about using base salary lower than the average teacher salary.

The applicant explained that the volunteer coordinator is a paid position, and the goal is to have a group of volunteers equal to 80% of the student population. The applicant stated that volunteers will receive background checks and that insurance is included in the budget.

The applicant also stated that its staffing plan is sufficient because it would have 17 staff members for 200 students at full capacity in 5 years. However, this does not address the Evaluation Team's concerns, which included the numerous responsibilities and heavy workload placed on the teaching staff without adequate support. This staffing issue is further compounded by other significant problems, including the lack of curriculum and standards for all classes, absence of an implementation plan for the integration of online and classroom instruction, inadequate training and professional development, and the possibility that teachers will not be given adequate preparation time.

**The Applications Committee asked questions regarding the applicant's IT capacity.**

The applicant stated that it would be using devices that would not need a lot of IT support and that the curriculum providers would also be providing support.

The Evaluation Team stated that based on its experience, technology in a technology-rich academic model can overwhelm teachers, and having minimal IT support to support teachers is not an effective instructional approach.

A Commissioner expressed concern with IT support and the professional development program that will implement the online curriculum in the classroom.