STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(ʻAHA KULA HOʻĀMANA)

GENERAL BUSINESS MEETING

Minutes of the meeting of Thursday March 27, 2014

NOTICE OF MEETING
Thursday, March 27, 2014
10:00 a.m.

Queen Liliuokalani Building
1390 Miller Street Honolulu, Hawaii
Fourth Floor, Room 404

MEMBERS
Peter Hanohano
Usha Kotner
Curtis Muraoka
Catherine Payne (Chair)
Karen Street
Roger Takabayashi

EXCUSED
Mitch D'Olier
Peter Tomozawa (Vice Chair)

ALSO PRESENT
Tom Hutton, Executive Director
Stephanie Klupinski, Organizational Performance Manager
Jeff Poentis, Financial Performance Specialist
Danny Vasconcellos, Organizational Performance Specialist

I. Call to Order

Commission Chair Catherine Payne called the meeting to order at 10:05 a.m.

II. Approval of Minutes

A. February 13, 2014 General Meeting

Commissioner Roger Takabayashi correvted the February 13, 2014 General Business Meeting minutes on page 1 to reflect that Commission withheld $255,000 in funds from Myron B. Thompson Academy. Commission Chair Payne corrected a typo on page 2.

Motion (Takabayashi/Muraoka) to approve the February 13, 2014 General Business Meeting minutes with amendments passed unanimously.

B. March 13, 2014 General Meeting

Motion (Takabayashi/Muraoka) to approve the March 13, 2014 General Business Meeting minutes passed unanimously.

III. Action on Guidelines for Commission Approval of School Policies (Conflict of Interest, Student Conduct and Discipline, Complaints, Procurement Policies and Procedures, Personnel, Accounting Policies and Procedures, and Admission and Enrollment)

Organizational Performance Specialist Danny Vasconcellos provided background on the action on guidelines for Commission approval of school policies. Vasconcellos shared that the current charter contract requires schools to submit their policies and procedures to the Commission. In addition, staff is recommending changes to the second generation charter contract, including revisions to the provision on school policies. Staff is recommending: 1) no longer requiring a specific conflict resolution policy, 2) newly requiring submittal of accounting policies and procedures and admission and enrollment policies, 3) making all enumerated policies subject to a few minimal approved Commission criteria, and 4) making actual admission and enrollment policies subject to actual Commission approval. Vasconcellos shared that during the Preliminary Organizational Performance Assessment ("POPA") review, staff found numerous questionable practices. As currently worded the contract does not expressly state that the Commission can require schools to amend polices to ensure they are compliant with law or contract requirements.

Vasconcellos shared that during contract revision discussions with the schools, some schools raised concerns about whether the school's governing board should retain authority to approve the policies and procedures without Commission review. In response to these concerns, staff now recommends that policies be subject merely to some basic Commission criteria rather than a formal approval process, with the exception of the admission and enrollment policy. Vasconcellos shared the guiding criteria the staff is proposing for approval.

Vasconcellos shared an example of the criteria for policies using the procurement policy. Commissioners discussed charter schools' exemption to State's procurement code. Commissioners discussed the difference between Commission criteria verses approval. Commissioners discussed concern of dictating policy content and clarifying guidelines verses criteria. Vasconcellos shared that staff will provide consistency in terms used. Vasconcellos shared staff would like to provide a tool within the contract to have the conversation with the school to ensure it is complying with legal requirements and not leaving itse;f and all charter

schools open to problems. A Commissioner stated the tool was helpful but suggested including a general statement in the contract that states that policies should comply with all State laws and provide guidelines, versus the Commission dictating the content of the policy. Vasconcellos shared that staff will be discussing contract revisions in the Performance and Accountability Committee for further discussion on language of the contract.

Organizational Performance Manager Stephanie Klupinski shared that under the current contract, staff does not expressly have the ability to require charter schools to amend their current policies to comply with law. Staff has provided guidelines and best practices to schools, but there are certain policies that are not complete enough to appropriately support a school and protect children and the public interest. Klupinski shared that the intent is to make sure schools are addressing legal requirements. Commissioners discussed the concerns with staff's recommendation and the intent of the recommendation. Klupinski clarified the goal of staff's recommendation is that the policies must meet the proposed criteria. Commissioner Usha Kotner suggests that staff's recommendation should be discussed further in the Performance and Accountability Committee. Commissioner Kotner shared that this is a substantive topic and the Committee can work through the pros and cons discussed. Commission Chair Payne called for public testimony.

Taffi Wise, Kanu o ka 'Āina Public Charter School ("Kanu") Governing Board, provided testimony specific to the student conduct and discipline, procurement policies and procedures, personnel and accounting policies and the level of Commission involvement.

A Commissioner questioned Wise regarding school discipline, specifically, whether is there an issue with a legal statute that does not allow student dismissal. Wise shared that in Kanu's case, there was a cyber-bullying issue with a student outside of the school. The school's mission and vision states that students are bind to the values that governs behavior, whether you are in or out of school. The student was dismissed for cyber-bullying and not accommodating the values; there was an agreement to assist in transferring the student to another school. The student sued the school for private school tuition for the remainder of her term. Wise shared that the complainant argued for using Chapter 19, which is a Department of Education ("DOE") policy, while the school argued for its own process, due diligence, appeals and public campaign process. The school prevailed and Wise shared that it set a positive precedent.

A Commissioner discussed Chapter 19 and strategies including alternative placement.

Commission Chair Payne asked staff return to answer Commissioner questions. Executive Director Tom Hutton shared that the spirit of the proposal is a checklist of very basic things. Staff is trying to keep it minimal to legal requirements and glaring weaknesses to ensure they minimally protect the school and the public interest. Hutton shared there are basic things that are lacking in the policies. Hutton shared the exception is the admission and enrollment policy due to serious questions from the submitted admission and enrolment policies.

Vasconcellos shared the intention is not to micro-manage the schools. There are policies that the staff has received that do not meet legal or practical requirements. If a school meets the requirements, they will not receive any requests to revise. The purpose is to allow staff to go back to the schools to revise policies as needed. Klupinski shared that the contract ensures charter schools comply with State and Federal law, but it does not currently require school

policies to reflect that and to communicate that to parents, employees, the community, and other stakeholders. The purpose of the recommendation is also to link the two.

A Commissioner questioned the role of the authorizer in setting any criteria and used the example of procurement policy. If a school passes its audit it must be in compliance with the law. It is the school's responsibility to decide how to get there. A Commissioner suggested providing guidance by providing tools to get to the outcome, but telling schools how to get to their end goal is not a good form of authorizing. Vasconcellos responded to the procurement example that if compliance is achieved, the school is fine. Audits may not confirm procurement issues unless it's on a transaction level. Auditors want to see only the written policies that outline procedures and the steps the school took in accordance with those procedures, not evaluate those procedures. Commissioners discussed the State procurement law and charter schools requirements.

Hutton shared that the contract states charter schools are to submit policies. The staff is asking for the ability to contact schools that submit policies, like clearly insufficient policies, and be able to have a conversation about why the policy is insufficient. Klupinski shared that many other authorizers have policy criteria and that their policies are how schools communicate with their stakeholders. Stakeholders may not necessarily read the law, but if it's available in a school's policies or website, it is available for all. A Commissioner suggested providing a guidebook. Commissioners discussed the difference between submitting policies and compliance with law. A Commissioner discussed the recommendation of criteria will require schools to communicate the compliance of the law, to provide quality charter schools, with open and transparent policies.

A Commissioner discussed staff's recommendation and the fine line between being an authorizer and providing support. Klupinski clarified that aside from the procurement example; staff is identifying the important legal requirements and requesting schools to include them in their policies. Commissioners asked whether the Commission becomes responsible of school policies. Vasconcellos shared that the reality is that the Commission would be held responsible either way: policies and procedures that are submitted to the Commission, even without minimal criteria, can be viewed as passive approval.

Vasconcellos shared that there is a fine line between providing flexibility and autonomy to the school and the level of authority the Commission has to the schools. The Commissioners discussed the concern of an individual's interpretation of the law and micro-management. Klupinski shared that the recommendation responds to the schools' requests for help with developing their policies and procedures. A Commissioner suggests having the contract state all policies and procedures must comply with the law and provide guidelines for schools.

Hutton shared staff will take into consideration today's feedback and discuss further at the Performance and Accountability Committee meeting. Commissioners asked Lynn Finnegan, Executive Director of Hawaii Public Charter School Network ("HPCSN") to provide a summary of the feedback she may have received from charter schools. Finnegan shared that HPCSN will be having an all schools meeting to discuss support services and lack thereof next week. Finnegan shared she will have a better read of the charter schools after next week's meeting.

Motion (Takabayashi/Muraoka) to refer item III. Action on Guidelines for Commission Approval of School Policies (Conflict of Interest, Student Conduct and Discipline, Complaints, Procurement Policies and Procedures, Personnel, Accounting Policies and Procedures, and Admission and Enrollment) to the Performance and Accountability Committee passed unanimously.

IV. Action on Further Revisions to Exhibit A Template for 2014 State Public Charter School Contract

Klupinski shared that staff made revisions to the Exhibit A template for the 2014 State Public Charter School Contract. Staff recommended further revising Exhibit A to include a clearer description of blended or virtual learning programs used. Klupinski shared the revised Exhibit A will include a check list regarding blended or virtual learning in addition general questions on the percentage of online or digital programs. Klupinski shared that any major modification to online delivery would require a change to a charter school's Exhibit A.

Commissioners clarified how this change may affect current applicants. Klupinski shared that if an applicant with any blended or virtual learning program is approved, the approved applicant will complete this information in their Exhibit A. Klupinski shared the definition of blended or virtual learning programs will be defined.

Taffi Wise, Kanu Governing Board provided testimony on further revisions to Exhibit A Template for 2014 State Public Charter School Contract. Wise provided an example of Kanu's new blended program with six students.

Motion (Takabayashi/Muraoka) to approve further revisions to the template for Exhibit A (Educational Program) attached to the State Public Charter School Contract, effective July 1, 2014, specifically to replace the field "Description of blended or virtual learning programs used" with specific defined terms relating to virtual and online learning and adding percentage of student population affected by such programs passed unanimously.

V. Action on Kanuikapono Public Charter School's Request for Approval of School's Enrollment Preference Policy

Hutton provided background to the request for approval of Kanuikapono Public Charter School's ("Kanuikapono") enrollment preference policy. Hutton shared that the charter school statute discusses non-discrimination and enumerates various characteristics; however, it does expressly allow certain enrollment preferences. All other enrollment preferences require Commission approval. Hutton shared that the school's original request was for an enrollment exception based on geography. Staff provided the request to the Performance and Accountability Committee to be approved at the Commission's General Business Meeting and has been working with the school for clarification in the duration. Hutton shared that since the Performance and Accountability Committee, staff has gotten more demographic information, which is included in the submittal focusing on the geographic request. Hutton shared that the school is currently in Anahola and has attracted students from beyond that community. Kanuikapono currently serves 49% students from the Kapaa/Wailua area and 42% from Anahola area.

Hutton shared Kanuikapono is proposing increasing its open lottery system. If you are an Anahola resident defined by streets listed in the submittal, you will receive an additional chance of being accepted into the school. Hutton shared it is still a lottery system but the odds are increased in favor of an Anahola resident. Hutton shared that Anahola is a community with a lot of Hawaiian Homelands; however, according to census data the area is not comprised of a single ethnicity. Hutton shared based on staff's research and school's articulation of non-discriminatory request, staff is recommending, if approved, the school monitor the impact of the lottery system.

Hutton shared that in addition to the geographic base enrollment request, Kanuikapono requests an enrollment preference for students who qualify for the Title I free and reduced lunch program. Hutton shared that recently the Federal Government made a change in federal policy, but our state statute prohibits discrimination on the basis of income or academics. Hutton shared that based on the information, staff is recommending denying the income base enrollment preference request. Hutton shared that staff is requesting approval to seek a change to state statute to authorize charter schools to adopt a weighted lottery favoring low-income students.

Commissioners discussed Title I super subgroup based on Strive HI and the advantage and disadvantage of including a weighted lottery favoring low-income students.

Ipo Torio, Executive Director of Kanuikapono, provided testimony on action on Kanuikapono's request for approval of the school's enrollment preference policy. Torio thanked the Commission staff for its assistance with the process. Torio shared that staff has demanded more work but with a good working relationship and trust, in reference to the policies discussed earlier, staff is not taking schools down the wrong road. Torio clarified that the approval of the geographic request will not affect current students. Torio shared that in their current situation, it is difficult to get into the school. Torio shared that with the current sibling exception and relation to governing board member or staff, the number of openings is limited. Torio shared last year, they had only 7 openings with 40 applicants. This year they will have 6 openings with over 40 applicants. Torio shared they want to go back to their community and say that they have done all they can, tipping the odds in their favor is what is available right now. Torio shared that regarding the Title I request, they are a Title I community. They will wait till next year for state statute to be aligned with federal law.

Puna Kalama Dawson, Kanuikapono Governing Board Chair and grandmother to five students at Kanuikapono, provided testimony on the agenda item. Dawson shared there has been a large change and community growth, which brought the community together. Dawson shared with the efforts of the Commission, history of charters, and community, the school has grown a lot.

Commissioners discussed enrollment policies. Commissioners discussed how public schools are open to local residents. Charter schools have lottery systems when the availability is exceeded by the number of applicants to allow equal opportunity.

Torio shared that it is difficult for Anahola residents to get into the school. Commissioner Peter Hanohano asked if the school is on Hawaiian Homelands. Torio stated yes, and that they have not felt pressure from the Department of Hawaiian Homelands but this does not mean it will not happen in the future. Commissioners discussed any entitlement homesteaders have in applying

for the charter school. Hutton shared that currently the request for Title I free and reduced lunch program needs more information and staff needs to do its due diligence.

Motion (Takabayashi/Muraoka) to approve that Kanuikapono Public Charter School's request for an enrollment preference as provided for in §302D-34, Hawaii Revised Statutes, for residents of the Anahola area of the Island of Kauai be approved as described in the submittal dated March 27, 2014 passed unanimously.

Motion (Takabayashi/Kotner) to approve that Kanuikapono Public Charter School's request for an enrollment preference, provided for in §302D-34, Hawaii Revised Statutes, for students who qualify for the Title I Free and Reduced Lunch Program be rejected as described in the submittal dated March 27, 2014 passed with five ayes (Hanohano, Kotner, Payne, Street, and Takabayashi) and one nay (Muraoka) passed.

Motion (Takabayashi/Muraoka) to approve that Commission staff seek a change to HRS 302D-16 that would expressly authorize a charter school to adopt a weighted lottery favoring low-income students and investigate possibilities of allowing preference to students residing in the area the school is located passed unanimously.

Commission Chair Payne called for recess at 12:09 p.m. Commission Chair Payne reconvened the meeting at 12:30 p.m.

VI. Update on Financial Review of Charter Schools' Second Quarter Financials

Hutton provided an update on the financial review of charter school's second quarter financials. Hutton shared that staff has not yet met with the schools that are pending further analysis and there is still some outstanding information. Hutton shared overall charter schools are doing a good job of managing their resources.

VII. Action on Committee Reports

A. Applications
   1. Update on 2013 Application Cycle
   2. Update on Status of Approved Applicant During Start-Up Period
   3. Update on Revising Application and Start-Up Timeline

Commission Chair Payne reported that Commissioner Mitch D'Olier provided a written report of the Applications Committee updates based on the last meeting. Commission Chair Payne asked Commissioners to review the submittal for additional information.

B. Performance and Accountability
   1. Action on Laupahoehoe Community Public Charter School's Governing Board's Request for an Exemption from Section 302D-12(b), Hawaii Revised Statutes

Commission Chair Payne shared that the Performance and Accountability Committee heard testimony at last month's meeting regarding exemption request. Hutton shared that in the past requests, Commission has authorized temporary exemptions with a time limit. Hutton shared

the importance to continue communicating with the governing boards to think outside the box when assembling governing board members and positions. Act 130 shifted the governance emphasis from a model focused on constituencies to one focused on skills. Nothing in the law limits a school's options for governing board members to those who reside nearby.

Motion (Takabayashi/Muraoka) to approve that Laupahoehoe Community Public Charter School's request for an exemption from §302D-12(b), Hawaii Revised Statutes, be granted through June 30, 2014, provided the exempted chair serve as a co-chair with the interim chair, or another governing board member to be determined no later than April 25, 2014 passed unanimously.

2. Update on Academic Performance Framework, Proposed Weighting Plan
3. Update on Hawaii Technology Academy's Auditor's Semi-Annual Financial Report in Accordance With Financial Monitoring of School
4. Update on Revisions to the State Public Charter School Contract and Communications With Schools
5. Update on Guidelines for Length of Terms of the State Public Charter School Contract

Commission Chair Payne referred to submittals on updates for: Academic Performance Framework, Proposed Weighting Plan; Hawaii Technology Academy's Auditor's Semi-Annual Financial Report in Accordance with Financial Monitoring of School; Revisions to the State Public Charter School Contract and Communications with Schools; and Guidelines for Length of Terms of State Public Charter School Contract.

VIII. Update on 2014 Legislative Session

Hutton shared with Commissioners the update on the 2014 Legislative Session. Hutton highlighted bills in the submittal. Hutton shared that it is hoped that the Commission budget will be allocated separately from the per pupil funds. Commissioners discussed the Commission's budget. Hutton shared his discussion with the Commission's deputy attorney general regarding the ambiguity of approved charter applicants and becoming a state entity. Hutton shared an update on the Commission's clean-up bill and highlighted areas of the changes. Hutton shared that during Senator Tokuda's webinar, she joked that Commission staff has taken residency at the Legislature. Hutton shared that not only the staff but the charter school community has come out in support at the Legislature and that this will be even more critically important in the weeks to come.

IX. Presentation of Executive Director's Report

A. Update on Charter Schools' Notices of Deficiency

Refer to submittal on Executive Director's Report

X. Future Commission Meetings and Agenda Items

The next General Business meeting is Thursday, April 10, 2014. Committee meetings are Thursday, April 24, 2014: Applications Committee meeting at 10:30 a.m., Administration and Operations Committee at 1:00 p.m. and Performance and Accountability Committee meeting at 2:30 p.m.

XI. Adjournment

Commission Chair Payne adjourned the meeting at 12:58 p.m.