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### RECOMMENDATION SUBMITTAL

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DATE OF SUBMITTAL: November 6, 2020

DATE OF MEETING: November 12, 2020

TO: Makalapua Alencastre, Chairperson  
Performance and Accountability Committee

FROM: Yvonne W.M. Lau, Interim Executive Director  
State Public Charter School Commission

AGENDA ITEM: IV. Presentation and Action on the Draft Performance Framework and  
Proposed New Charter Contract (Contract 4.0)

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#### I. DESCRIPTION

Presentation and action on draft performance framework and charter contract

#### II. POLICY CONTEXT AND AUTHORITY

Pursuant to Hawaii Revised Statutes (“HRS”) §302D-16(a), §302D-16, “The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic, financial, organizational, and operational performance indicators, measures, and metrics that will guide the authorizer's evaluations of each public charter school. The performance framework, as established by the authorizer, shall include indicators, measures, and metrics for, at a minimum: (1) Student academic proficiency; (2) Student academic growth; (3) Achievement gaps in proficiency and growth between major student subgroups; (4) Attendance; (5) Enrollment variance; (6) Postsecondary readiness, as applicable for high schools; (7) Financial

performance and sustainability; (8) Performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract; and (9) Organizational viability.”

### III. BACKGROUND

Since July 1, 2017, charter schools have been subject to the third version of the charter contract (Contract 3.0) which includes the Commission’s current academic, financial, and organizational performance frameworks. **Exhibit 1.**

On May 14, 2020 the Commission created a working group consisting of Commissioners Alencastre and Commissioner Ikeda to facilitate feedback on a new version of the performance framework. To solicit feedback from the schools, three listening sessions were held via zoom on May 18, 2020, June 9, 2020, and June 30, 2020. Additionally, a survey was also sent out to schools on July 9, 2020. The draft framework is based on the feedback received from schools and research conducted by staff.

The new version of the contract (Contract 4.0) and performance frameworks is to be effective July 1, 2021. The next step in the process is to obtain feedback from schools on the draft document during the months of November and December 2020.

### IV. INFORMATION FOR CONSIDERATION

The following adjustments have been made:

#### **Contract**

- Exhibit C, Educational Service Provider Requirements is incorporated into the body of the document and no longer an exhibit
- Exhibit D, Intervention Protocol is incorporated into the body of the document and no longer an exhibit
- Includes renewal criteria

#### **Academic Performance Framework**

- Consists of five indicators:
  1. Mission aligned initiative
  2. Standardized assessments- STRIVE HI
  3. Comparative performance- Complex area
  4. Student engagement
  5. School reported data- Site reported diagnostic
- Points based system

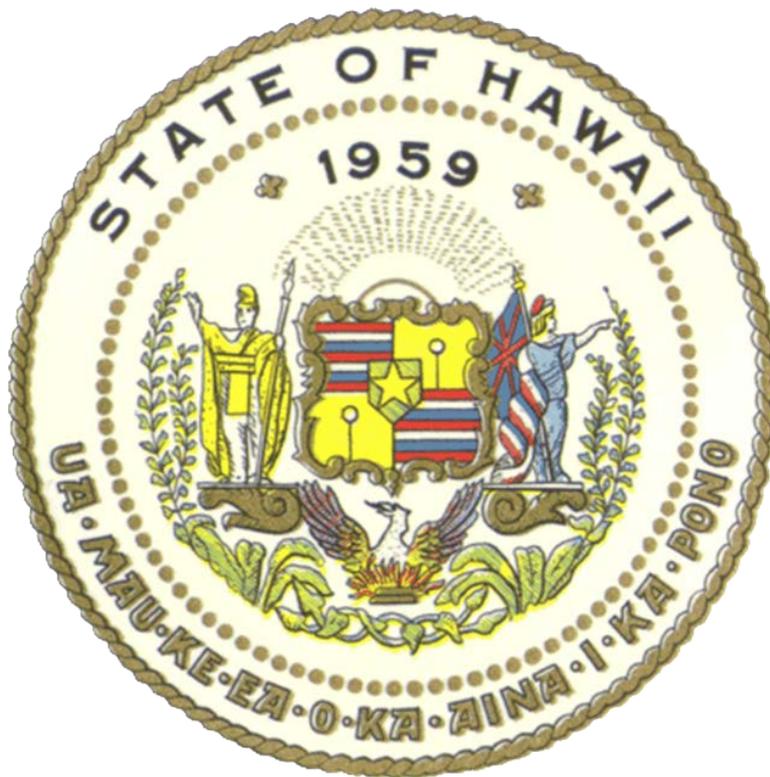
#### **Financial Performance Framework**

- No changes made

**Exhibit 1**

**Contract 3.0**

# State Public Charter School Commission



## Public Charter School Contract

**[*school name*]**

Effective July 1, 2017

**CONTENTS**

**Parties .....6**

**SECTION I. PURPOSE, TERM AND CONDITIONS.....7**

**SECTION II. GENERAL TERMS .....9**

Section 2.1 Entire Contract ..... 9

Section 2.2 Amendments ..... 9

Section 2.3 Term ..... 9

Section 2.4 Governing Law..... 9

Section 2.5 Compliance with Laws..... 9

Section 2.6 Conflict Between Contract, Law, and Administration Rules ..... 10

Section 2.7 Legal Status of School ..... 10

Section 2.8 Board of Education Authority ..... 10

Section 2.9 Non-Assignability ..... 10

Section 2.10 Notices ..... 10

Section 2.11 Severability..... 10

Section 2.12 Waiver ..... 11

Section 2.13 No Third-Party Beneficiary ..... 11

**SECTION III. GOVERNANCE OF SCHOOL.....12**

Section 3.1 Governing Board Responsibilities ..... 12

Section 3.2 State Code of Ethics and Code of Conduct..... 12

Section 3.3 Governing Board Reporting ..... 12

**SECTION IV. EDUCATIONAL PROGRAM .....13**

Section 4.1 School’s Control ..... 13

Section 4.2 Material Elements of Educational Program ..... 13

Section 4.3 Academic Standards..... 13

Section 4.4 Graduation Requirements for High School ..... 13

Section 4.5 Education of Students with Disabilities..... 13

Section 4.6 Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act  
Amendments Act of 2008 ..... 14

Section 4.7 English Language Learners/English Learners ..... 14

**SECTION V. SCHOOL PERFORMANCE.....15**

Section 5.1 Performance Frameworks.....	15
Section 5.2 Modification to Performance Frameworks.....	15
Section 5.3 State Accountability System.....	15
<b>SECTION VI. FINANCIAL MATTERS.....</b>	<b>16</b>
Section 6.1 Fiscal Responsibilities.....	16
Section 6.2 Fiscal Year.....	16
Section 6.3 Procurement .....	16
Section 6.4 Management and Financial Controls .....	16
Section 6.5 Assets .....	16
Section 6.6 Chart of Accounts.....	16
Section 6.7 Transfer of Funds to Affiliated Nonprofit or Educational Service Provider .....	16
Section 6.8 Financing Agreements.....	17
Section 6.9 Insurance.....	17
Section 6.10 Per-pupil Funding .....	17
Section 6.11 Per-pupil Funding: Enrollment Count Reports for Funding .....	17
Section 6.12 Per-pupil Funding: Funding Subject to Appropriation .....	17
Section 6.13 Per-pupil Funding: Adjustments to Funding .....	17
Section 6.14 Per-pupil Funding: Facility Funds .....	18
Section 6.15 Per-pupil Funding: Federal Funding .....	18
Section 6.16 Per-pupil Funding: Title I Funding .....	18
Section 6.17 Per-pupil Funding: Additional Funds.....	18
Section 6.18 Per-pupil Funding: Fees.....	18
Section 6.19 Financial Reporting: Budget and Cash Flow .....	18
Section 6.20 Financial Reporting: Quarterly Financial Reports .....	19
Section 6.21 Financial Reporting: Annual Audits and Financial Reviews.....	19
<b>SECTION VII. STUDENT ADMISSION, ENROLLMENT, WITHDRAWAL, &amp; DISMISSAL .....</b>	<b>20</b>
Section 7.1 Compulsory Education .....	20
Section 7.2 No Tuition or Fees for Admission, Enrollment, or Attendance.....	20
Section 7.3 Admissions .....	20
Section 7.4 Enrollment.....	20
Section 7.5 Attendance.....	20
Section 7.6 Attendance: Virtual or Blended Learning School/Program.....	20

Section 7.7 Dismissal.....	21
Section 7.8 Withdrawal and Transfer .....	21
<b>SECTION VIII. OPERATION OF SCHOOL .....</b>	<b>22</b>
Section 8.1 Student Records .....	22
Section 8.2 Records Retention.....	22
Section 8.3 Open Records Law.....	22
Section 8.4 Student Conduct and Discipline .....	22
Section 8.5 Punishment of Pupils .....	22
Section 8.6 Complaints Process .....	22
Section 8.7 Contracting with an Educational Service Provider.....	22
Section 8.8 Transportation .....	23
Section 8.9 School Policies.....	23
<b>SECTION IX. HEALTH AND SAFETY .....</b>	<b>24</b>
Section 9.1 Safe Environment.....	24
Section 9.2 Health Clearances .....	24
Section 9.3 Student Health .....	24
Section 9.4 Reporting of Crime-related Incidents .....	24
Section 9.5 Use of Tobacco Prohibited .....	24
<b>SECTION X. STUDENT RECORDS AND DATA .....</b>	<b>25</b>
Section 10.1 Educational Data .....	25
Section 10.2 Reporting of Data and School Information .....	25
Section 10.3 Commission’s Annual Report to the BOE and Legislature .....	25
Section 10.4 Permitted Disclosures and Users by Operators .....	25
<b>SECTION XI. FACILITIES .....</b>	<b>26</b>
Section 11.1 Location.....	26
Section 11.2 Emergency Relocation.....	26
Section 11.3 Occupancy Rights .....	26
Section 11.4 Compliance with Codes.....	26
Section 11.5 Relocation or Expansion of Facilities.....	26
<b>SECTION XII. CHARTER SCHOOL PERSONNEL .....</b>	<b>28</b>
Section 12.1 Collective Bargaining.....	28
Section 12.2 Nondiscrimination.....	28

Section 12.3 Teacher Credentials .....	28
Section 12.4 Personnel Data .....	28
Section 12.5 Evaluations .....	28
Section 12.6 Non-Instructional Employees.....	28
Section 12.7 Criminal History Checks.....	29
Section 12.8 Personnel Policies .....	29
<b>SECTION XIII. IMMEDIATE NOTICE .....</b>	<b>30</b>
Section 13.1 School Emergency Closure .....	30
Section 13.2 Mandatory Notification.....	30
<b>SECTION XIV. OVERSIGHT .....</b>	<b>31</b>
Section 14.1 Monitoring .....	31
Section 14.2 Monitoring Related to Federal Programs .....	31
Section 14.3 Access to Records.....	31
Section 14.4 Site Visits .....	31
Section 14.5 Intervention .....	31
<b>SECTION XV. RENEWAL, NON-RENEWAL, REVOCATION, CLOSURE, AND DISSOLUTION.....</b>	<b>32</b>
Section 15.1 Renewal and Non-renewal.....	32
Section 15.2 Revocation.....	32
Section 15.3 School-Initiated Closure .....	32
Section 15.4 Dissolution.....	32
Section 15.5 Financial Insolvency .....	32
Section 15.6 Remaining Assets .....	32
<b>SECTION XVI. AGREEMENT .....</b>	<b>33</b>
<b>APPENDICES .....</b>	<b>34</b>
Exhibit A: Educational Program .....	35
Exhibit B: Performance Frameworks (Academic, Financial, and Organizational).....	36
Exhibit C: Education Service Provider Requirements .....	43
Exhibit D: Intervention Protocol .....	47
Exhibit E: Renewal, Non-renewal, and Revocation.....	50

## **PARTIES**

This Contract is executed by and between the STATE PUBLIC CHARTER SCHOOL COMMISSION (“Commission”), a commission established under the laws of the State of Hawaii, whose mailing address is 1111 Bishop Street, Suite 516, Honolulu, Hawaii, 96813, and **[School Name]** (“School”), whose mailing address is **[School Mailing Address]**, singularly “Party” and collectively “Parties.”

## SECTION I. PURPOSE, TERM AND CONDITIONS

Charter school contracts are the operational legal agreements between the authorizer who approves charter applications and renewals, provide ongoing accountability oversight, and, if necessary, closures of public charter schools. The Commission authorizes public charter schools in accordance with the Hawaii State Legislature enacted Act 130, Session Laws of Hawaii 2012, effective June 19, 2012 and codified as Chapter 302D, Hawaii Revised Statutes (HRS), which sets forth the laws under which charter schools are created and governed.

### Mission – [§302D-3] 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 for administrative purposes only. Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92.

(b) The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

Hawaii State Legislature enacted Act 130, Session Laws of Hawaii 2012, effective June 19, 2012 and codified as Chapter 302D, HRS, which sets forth the laws under which charter schools are created and governed.

Pursuant to Chapter 302D, HRS, the Commission has statewide chartering jurisdiction and authority and is empowered to authorize public charter schools and enter into a charter contract with approved public charter schools. Section 302D-1, HRS, defines the “charter contract” as a fixed-term, bilateral, renewable contract between a public charter school and a charter school authorizer that outlines the role, powers, responsibilities, and performance expectations for each party to the contract. Through this Charter Contract, the Parties are desirous of ensuring clear requirements for accountability while preserving the autonomy of the School to support new, innovative approaches to education and contribute to the development of high quality public charter schools throughout the State.

The Commission is committed to support new approaches to education that accommodate the individual needs of students and provide the State with successful templates that can dramatically improve Hawaii's educational standards for the twenty-first century, and that ACT 130 will create genuine opportunities for communities to implement innovative models of community-based education.

The Commission is committed to the innovative nature and potential of dual language and cultural pathways in Hawaii public education system and affirms a commitment to develop a sensitive and appropriate evaluation framework for schools instructing in dual language and cultural contexts. The Commission is committed in engaging with the State Board of Education (BOE), the Hawaii Department of Education (DOE), charter schools, and other stakeholders in efforts, initiatives, and aspirations for

Hawaiian education programs as reflected in Article X Section IV of the Hawaii State Constitution and BOE policies, including BOE policies E3 and 105-8.

The Commission shall operate ethically and comply with ethical standards of conduct, federal and state laws, rules, regulations, policies, procedures, and guidance to promote public trust and confidence in public education. The Commission will adhere to the Hawaii State Code of Ethics and the Code of Ethics for public employees of the state as prescribed in Chapter 84 of the Hawaii Revised Statutes and Board of Education Policy 201-1.

The Commission shall approve quality charter applications that meet identified educational needs of the state, promote a diversity of educational opportunities and ensure the compliance of a public charter school it authorizes with all applicable state and federal laws, including reporting requirements.

The Commission shall produce and provide an annual report pursuant to Section 302D-7, HRS to include but not limited to; summarizing the Commission's strategic vision for chartering and progress towards that vision, academic and financial performance of all operating public charter schools overseen by the commission, commission's operating budget through its audited financials in compliance with generally accepted accounting principles, and a breakdown of federal funds received by the department and distributed by the commission.

The Commission shall distribute the School's per-pupil allocation each fiscal year pursuant to Section 302D-28(f), HRS, and shall provide the School with the calculations used to determine the per-pupil amount each year. All funds distributed to the School from the Commission shall be used solely for the School's educational purposes as appropriated by the Legislature, and the School shall have discretion to determine how such funding shall be allocated at the school level to serve those purposes subject to applicable laws and this Contract. The Commission shall distribute the School's per-pupil allocation each fiscal year pursuant to Section 302D-28(f), HRS, and shall provide the School with the calculations used to determine the per-pupil amount each year.

Charter Schools as defined in Section 302D-1, HRS are public schools that 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.

This contract—a charter—is a legally binding agreement that permits the school to operate and articulates **the rights and responsibilities of each party regarding school autonomy**, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms.

## SECTION II. GENERAL TERMS

### Section 2.1 Entire Contract

The Parties intend this Charter Contract, including all attachments and exhibits, to represent a final and complete expression of their agreement, which shall be considered the Charter Contract. All prior representations, understandings, and discussions are merged herein, and no course of prior dealings between the Parties shall supplement or explain any terms used in this document. The parties understand that any amendments to this Charter Contract needs to be in writing and expressly approved by the Commission.

### Section 2.2 Amendments

Any amendment to this Contract shall be effective only if approved by a majority vote of the Commission at a public meeting.

The School may submit any proposed requested amendment to the Commission in accordance with instructions provided by the Commission. The School shall not take action related to the requested amendment until the Commission has approved said amendment. A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract.

Changes in operation that require the School to obtain an amendment to this Contract include but are not limited to the following changes:

- a. To any material term of the School's Educational Program (Exhibit A);
- b. In school location (relocation of site or adding or terminating sites);
- c. In school management arrangement (such as intention to hire or terminate a management provider);
- d. In admissions or enrollment policies or procedures.

### Section 2.3 Term

The term of this Contract shall be [*Number of years*] years, commencing on July 1, 2017, and terminating on June 30, 20[*Year*].

### Section 2.4 Governing Law

This Charter Contract shall be governed by and construed in accordance with the laws of the State of Hawaii, including all requirements imposed by applicable policy and regulation, and all applicable federal laws of the United States.

### Section 2.5 Compliance with Laws

The School and the Commission shall comply with all applicable federal, State, and city and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time.

### **Section 2.6 Conflict Between Contract, Law, and Administration Rules**

In the event of a conflict between this Charter Contract, State law, and the administrative rules pertaining to charter schools, the order of precedence shall be State law, followed by administrative rule, followed by the terms and conditions of this Charter Contract.

### **Section 2.7 Legal Status of School**

Pursuant to Sections 302D-1 and 302D-25, HRS, the School is a public school and entity of the State and may not bring suit against any other entity or agency of the State. The School shall be nonsectarian in its operations.

### **Section 2.8 Board of Education Authority**

Pursuant to its duties under Article X, Section 3, of the Hawaii State Constitution, the BOE has the power to formulate statewide educational policy. The School shall only be subject to BOE policies expressly identified by the BOE as applying to charter schools. Should conflicts between an applicable BOE policy and a provision in this Charter Contract occur, the BOE policy shall control.

### **Section 2.9 Non-Assignability**

The School shall not assign or subcontract any duty, obligation, right, or interest under this Charter Contract without prior written approval of the Commission. A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract.

### **Section 2.10 Notices**

Unless otherwise specified by law, any written notice required to be given by a Party to this Charter Contract shall be delivered: (a) personally, (b) by United States first class mail, postage prepaid, to the Parties' mailing addresses first indicated in this Charter Contract; or (c) electronically via email.

A notice shall be deemed to have been received three business days after mailing or at the time of actual receipt, whichever is earlier. For notices sent electronically via email, the notice shall be deemed to be received once the Party sending the notice receives confirmation via an email tracking notice.

Parties are responsible for notifying each other in writing of any change of mailing and email addresses.

### **Section 2.11 Severability**

In the event that any provision of this Charter Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Charter Contract.

**Section 2.12 Waiver**

The failure of either Party to insist upon the strict performance of or compliance with any term, provision, or condition of this Charter Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the Parties' right to enforce the same in accordance with this Charter Contract.

**Section 2.13 No Third-Party Beneficiary**

The enforcement of the terms and conditions of this Charter Contract shall be strictly reserved to the Commission and the School. Nothing contained in this Charter Contract shall give or allow any claim or right of action whatsoever by any other person. It is the express intent of the Parties to this Charter Contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only, without enforceable rights against a Party to this Charter Contract.

## **SECTION III. GOVERNANCE OF SCHOOL**

### **Section 3.1 Governing Board Responsibilities**

The School's Governing Board is the independent board of the School that is responsible for the financial, organizational, and academic viability of the School; possesses the independent authority to determine the organization and management of the School, the curriculum, and the instructional methods; has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees and is considered the employer of School employees for purposes of Chapters 76, 78 and 89, HRS; and ensures compliance with applicable laws.

### **Section 3.2 State Code of Ethics and Code of Conduct**

The School's Governing Board and employees shall comply with the State Code of Ethics, codified in Chapter 84, HRS. The School's Governing Board, employees, contractors, and volunteers shall also comply with the Code of Conduct developed and implemented by the Commission, as required in BOE Policy 201-1, as may be amended.

### **Section 3.3 Governing Board Reporting**

The School's Governing Board shall notify the Commission within 14 business days of any membership changes on the Governing Board.

The School's Governing Board shall make the following documents available at a publicly accessible area in its office so as to be available for review during regular business hours, and on its website, and by the respective due dates:

- a. A list of the current names and contact information of the Governing Board's members and officers;
- b. The schedule of Governing Board meetings by September 1 of each year;
- c. Governing Board meeting notices and agendas as specified in Section 302D-12, HRS; and
- d. Governing Board meeting minutes as specified in Section 302D-12, HRS.

## **SECTION IV. EDUCATIONAL PROGRAM**

### **Section 4.1 School's Control**

Subject to the terms and conditions of this Charter Contract, the School shall have control over and responsibility for the design and delivery of the educational program and for attaining the academic performance standards and targets established in the Performance Frameworks attached as Exhibit B and, subject to Section 4.2 of this Charter Contract, shall have the discretion to modify, amend, adapt, and otherwise change its educational program as it deems necessary to achieve the academic performance standards and targets.

### **Section 4.2 Material Elements of Educational Program**

The material elements of the School's Educational Program, including but not limited to the School's mission and vision statements, are as set forth in Exhibit A to this Charter Contract. The School shall, at all times, operate in a manner consistent with its Educational Program as defined in Exhibit A. Revisions to any of the elements in Exhibit A (such as establishing, creating, or expanding a virtual or blended learning programs or expanding or eliminating a division) shall be considered a material change to the Charter Contract and shall require prior written approval by the Commission. Where appropriate, this approval shall be informed by an analysis of the School's performance on the Performance Frameworks under Section 5.1 of this Charter Contract particularly to the extent that such changes are intended to improve educational outcomes.

### **Section 4.3 Academic Standards**

As determined by BOE Policy 102-3, as may be amended, the School shall implement the Common Core or other State academic standards.

The School shall retain the autonomy to select a particular curricular and/or instructional approach consistent with the Common Core or other applicable State academic standards.

### **Section 4.4 Graduation Requirements for High School**

The School shall comply with the high school graduation requirements set in BOE Policy 102-15, as may be amended, provided that the School may request a waiver of this policy from the BOE and shall notify the Commission in writing of any approved waivers within 14 business days.

### **Section 4.5 Education of Students with Disabilities**

The DOE is the State of Hawaii's "state education agency" (SEA) and "local education agency" (LEA) for purposes of compliance with the Individuals with Disabilities Education Act (IDEA). All public schools, including charter schools, are part of and fall under the LEA. As such, the School shall comply with all applicable federal and State laws, rules, policies, procedures, and directives regarding the education of students with disabilities, including but not limited to Chapter 8-60, Hawaii Administrative Rules (HAR).

The Commission shall collaborate with the DOE to develop guidelines related to the provision of special education services and resources to each charter school.

The DOE is statutorily responsible for the provision of a free appropriate public education as defined by Section 504 of the Rehabilitation Act of 1973 ("Section 504") and IDEA. If the School enrolls special education students or identifies one of its students as eligible for special education, the School shall be responsible for ensuring the educational and related services that are required by a student's individualized education program (IEP) pursuant to Section 302D-30, HRS.

The programs and services for the student shall be determined collaboratively by the student's IEP team, which includes the student's parents or legal guardian.

#### **Section 4.6 Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008**

The School shall comply with Section 504 and the Americans with Disabilities Act Amendments Act of 2008 and all related DOE rules, policies, and procedures in its general curriculum, including but not limited to implementation of any Section 504 plan that has been developed for a student, all as may be amended from time to time. The DOE may provide training, consultation, and advice to the School as needed with regard to Section 504 compliance, including legal interpretations, recommendations for intervention strategies, and assistance in conducting Section 504 plan and review meetings.

#### **Section 4.7 English Language Learners/English Learners**

The School shall provide services to students who are English Language Learners (English Learners) in compliance with all applicable federal and State laws, regulations, rules, court orders, policies, procedures, and guidance, all as may be amended from time to time, to ensure linguistic accessibility to the School's educational program. Should the DOE continue to provide the Commission funding to administer this technical assistance, the Commission shall provide the School such technical assistance. The School shall also assist Immigrant Children and Youth, as defined in Section 3301(6), Title III, Elementary and Secondary Education Act, as the same may be amended from time to time, in meeting the State academic content and student academic achievement standards that all public school students are expected to meet.

## **SECTION V. SCHOOL PERFORMANCE**

### **Section 5.1 Performance Frameworks**

The School's academic, organizational, and financial performance under this Charter Contract shall be evaluated using the Academic, Organizational, and Financial Performance Frameworks, respectively, attached as Exhibit B to this Charter Contract. The specific terms, forms, and requirements of the Performance Frameworks, including any required indicators, measures, metrics, and targets, are maintained and disseminated by the Commission and shall be binding on the School. Material changes to the Performance Frameworks shall require approval by the Commission.

### **Section 5.2 Modification to Performance Frameworks**

The Parties acknowledge that specific terms, forms, and requirements of the Performance Frameworks may be modified to the extent required to align with changes to applicable State or federal accountability requirements as set forth in law or policies or based on other circumstances that make assessment based on the existing Performance Framework requirements impracticable.

### **Section 5.3 State Accountability System**

The School shall be subject to the State public school accountability system and comply with all requirements related to the State assessment for all public schools. The School shall also be subject to mandatory reporting requirements from the United States Department of Education. The School shall administer all student testing as required by applicable federal and State law, rule, policies, and procedures.

## **SECTION VI. FINANCIAL MATTERS**

### **Section 6.1 Fiscal Responsibilities**

The School shall maintain accurate and comprehensive financial records, practice governmental accounting in accordance with Generally Accepted Accounting Principles, and use public funds in a fiscally responsible manner.

### **Section 6.2 Fiscal Year**

The fiscal year for the School shall begin on July 1 and end on June 30 of the subsequent calendar year.

### **Section 6.3 Procurement**

Pursuant to Sections 302D-25(b) and 302D-12(d), HRS, the School and its Governing Board shall be exempt from Chapter 103D, HRS. However, the School's Governing Board shall develop and adhere to a policy for the procurement of goods, services, and construction consistent with the goals of public accountability and public procurement practices. The policy shall be readily accessible from the School's website as described in Section 8.9 of this Charter Contract

### **Section 6.4 Management and Financial Controls**

The School's Governing Board shall develop and adhere to a policy for the School's financial management that shall be readily accessible from the School's website, as described in Section 8.9. This policy shall allow the School to maintain appropriate governance and management procedures and financial controls which shall include, but not be limited to:

- a. Budgets;
- b. Accounting policies and procedures;
- c. Payroll procedures;
- d. Financial reporting; and
- e. Internal control procedures for receipts, disbursements, purchases, payroll, inventory, and fixed assets.

### **Section 6.5 Assets**

The School shall maintain a complete and current inventory of all of its property and shall update the inventory annually. The School shall take all necessary precautions to safeguard assets acquired with public funds.

### **Section 6.6 Chart of Accounts**

The Commission may require the School to follow a uniform chart of accounts; provided that the Commission shall provide a reasonable time period for the School to convert to such chart of accounts.

### **Section 6.7 Transfer of Funds to Affiliated Nonprofit or Educational Service Provider**

The School shall not transfer public funds to any affiliated nonprofit or educational service provider except for legitimate and reasonable payments from the School to the affiliated nonprofit or

educational service provider pursuant to a written legal agreement. The School shall provide the Commission a copy of any newly executed agreement between the affiliated nonprofit or educational service provider and the School within 14 business days of execution.

### **Section 6.8 Financing Agreements**

The School shall comply with Chapter 37D, HRS, relating to financing agreements, which requires the approval of the attorney general. "Financing agreement" means any lease purchase agreement, installment sale agreement, loan agreement, line of credit or other agreement of the department or, with the approval of the director, and any agency, to finance the improvement, use or acquisition of real or personal property that is or will be owned or operated by one or more agencies of the State, the department or any agency, or to refinance previously executed financing agreements including certificates of participation relating thereto. The School shall not act as a guarantor of any such financing agreement.

### **Section 6.9 Insurance**

The School shall be covered under the Statewide Risk Management Program pursuant to Chapter 41D, HRS, for liability, property, crime, and automobile insurance. The School shall comply with all applicable laws, rules, policies, procedures, and directives of the Department of Accounting and General Services' Risk Management Office. The School may purchase additional insurance coverage if so desired.

### **Section 6.10 Per-pupil Funding**

The School's non-facility general fund per-pupil funding shall be as defined in Section 302D-28, HRS. All funds distributed to the School from the Commission shall be used solely for the School's educational purposes as appropriated by the Legislature, and the School shall have discretion to determine how such funding shall be allocated at the school level to serve those purposes subject to applicable laws and this Charter Contract.

### **Section 6.11 Per-pupil Funding: Enrollment Count Reports for Funding**

The School shall provide the Commission projected enrollment counts as required for funding, budgeting, and reporting purposes by May 15. The Commission shall obtain actual enrollment counts directly from student information data systems to determine the School's per-pupil funding.

### **Section 6.12 Per-pupil Funding: Funding Subject to Appropriation**

The general fund per-pupil funding is contingent upon legislative appropriation and allocation of funds. If the Legislature fails to appropriate sufficient monies or if the appropriation is reduced by the Governor or by any other means and the effect of such non-appropriation or reduction is to provide insufficient monies for the continuation of the School, this Charter Contract shall terminate on the last day of the fiscal year for which sufficient funds are available.

### **Section 6.13 Per-pupil Funding: Adjustments to Funding**

The Commission's disbursement of per-pupil funds may be adjusted for the following reasons:

- a. To reconcile projected versus actual enrollment counts;

- b. To adjust the per-pupil amount due to restriction by the Governor or other reduction action;
- c. To adjust the actual enrollment count based on an audit of pupil counts and per pupil revenue that impact the funding received by the School; or
- d. To withhold funds due to non-compliance in accordance with Section 302D-28, HRS.

The Commission shall have the discretion to determine whether to make an adjustment by:

- a. Reconciling the adjusted amount in a subsequent disbursement to the School; or
- b. Either making payment to the School or requiring reimbursement from the School with at least thirty (30) days' written notice by the Commission.

#### **Section 6.14 Per-pupil Funding: Facility Funds**

In each year in which funds are appropriated for charter school facility purposes, the Commission shall allocate the funds among eligible charter schools, as provided for in Section 302D-29.5, HRS. All funds distributed to the School shall be restricted to the purposes of the appropriation.

#### **Section 6.15 Per-pupil Funding: Federal Funding**

Pursuant to Section 302D-28, HRS, the School shall be eligible for all federal financial support to the same extent as all other public schools. The Commission shall distribute federal funds to the School in accordance with applicable federal and state rules and regulations. The Commission shall make the allocation methods publicly available.

#### **Section 6.16 Per-pupil Funding: Title I Funding**

The School, if eligible, shall use Title I, Part A funds in accordance with applicable federal and state law and regulations including programmatic and fiscal requirements, and the Commission shall provide information to assist the School in understanding Title I, Part A requirements. The School shall provide a school plan that includes the components and school improvement elements required under Title I, Part A.

#### **Section 6.17 Per-pupil Funding: Additional Funds**

The School may accept monetary contributions or grants and shall comply with all applicable State or federal laws regarding such monetary contributions or grants.

#### **Section 6.18 Per-pupil Funding: Fees**

Pursuant to Section 302D-28, HRS, the School may charge reasonable fees, to the extent permitted by law, for co-curricular activities.

#### **Section 6.19 Financial Reporting: Budget and Cash Flow**

The School shall prepare and provide to the Commission a copy of its annual budget as approved by the School's Governing Board and cash flow projections for each upcoming fiscal year by June 15 or two weeks after the Commission notifies the School of the anticipated amount of State non-facility general fund per-pupil funding to be allocated, whichever is later.

**Section 6.20 Financial Reporting: Quarterly Financial Reports**

The School shall prepare and submit quarterly financial reports to the Commission within 30 calendar days of the end of each fiscal year quarter.

**Section 6.21 Financial Reporting: Annual Audits and Financial Reviews**

Each fiscal year, the School shall provide for an independent annual financial audit conducted in accordance with Generally Accepted Auditing Standards and Governmental Auditing Standards and performed by a certified public accountant (CPA); provided the Commission may allow a financial review, pursuant to Section 302D-32, HRS. The School shall provide the completed audit or financial review to the Commission by November 1, after the conclusion of the fiscal year; provided that the Commission, with reasonable notice to the School, may change the deadline depending on circumstances. The School shall pay for the audit or financial review if an appropriation is not made by the Legislature for such purpose.

## **SECTION VII. STUDENT ADMISSION, ENROLLMENT, WITHDRAWAL, & DISMISSAL**

### **Section 7.1 Compulsory Education**

The School shall follow the age and compulsory attendance requirements set in Section 302A-1132, HRS.

### **Section 7.2 No Tuition or Fees for Admission, Enrollment, or Attendance**

Pursuant to Section 302D-28, HRS, the School shall not assess tuition, contributions, or fees of any kind as a condition of admission, enrollment, or attendance. The School may charge fees for co-curricular activities, as described in Section 6.18 of this Charter Contract.

### **Section 7.3 Admissions**

The School shall comply with its admission policies and procedures as approved by the Commission. If the number of applicants exceeds the School's capacity of a program, class, grade level, or building, the School shall select students to enroll using a public lottery that shall be publicly noticed; provided that if the School is a conversion charter school serving as the home school for the DOE district, then the School shall follow Section 302D-34(c), HRS. These policies and procedures shall be readily accessible from the School's website, as described in Section 8.9 of this Charter Contract

### **Section 7.4 Enrollment**

Pursuant to Section 302D-34, HRS, the School shall make all student recruitment, admissions, enrollment, and retention decisions in a nondiscriminatory manner and without regard to 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. The School shall maintain accurate and complete enrollment data.

The School shall not impose enrollment preferences, except as allowed for in Section 302D-34, HRS. Any enrollment preferences adopted by the School shall be included in the admissions policy and procedures, as described in Section 7.3 of this Charter Contract.

### **Section 7.5 Attendance**

The School's Governing Board shall maintain and adhere to a policy for attendance. The policy shall be readily accessible from the School's website, as described in Section 8.9 of the Charter Contract. The School shall maintain daily records of student attendance and absences.

### **Section 7.6 Attendance: Virtual or Blended Learning School/Program**

If the School is a virtual or blended learning school/program, the School's attendance policy shall include:

- a. School procedures to account for student attendance online; and
- b. The requirements for on-site attendance for each course and grade level.

**Section 7.7 Dismissal**

The School shall not dismiss or transfer a student involuntarily, unless the dismissal or transfer is accomplished through procedures established by the School that are in compliance with Sections 302A-1134 and 302A-1134.6, HRS, and due process requirements, provided that any dismissal of a student with a disability shall comply with the requirements of Chapter 8-60, HAR.

**Section 7.8 Withdrawal and Transfer**

The School shall adopt and adhere to withdrawal and transfer procedures which provide for the timely release of any student who withdraws from the School and/or transfers to another school. The School's withdrawal and transfer procedures shall also provide for the transfer of the student's records to the new school in a reasonable timeframe.

## **SECTION VIII. OPERATION OF SCHOOL**

### **Section 8.1 Student Records**

The School shall maintain student records for current and former students in accordance with the requirements of State and federal law, including the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA), as may be amended from time to time.

### **Section 8.2 Records Retention**

The School shall comply with all applicable federal and State requirements pertaining to the retention of all School records. As a State entity, the School shall comply with the policies and guidelines of the Department of Accounting and General Services, Archives Division, Records Management Branch, with regard to the retention and disposal of government records.

### **Section 8.3 Open Records Law**

The School shall comply with Chapter 92F, HRS, the Uniform Information Practices Act.

### **Section 8.4 Student Conduct and Discipline**

The School shall adopt, update, and adhere to written policies concerning standards of student conduct and discipline which shall comply with all applicable federal and State laws. The School shall provide this policy to parent(s)/guardian(s) and students at the start of each school year and shall make this policy readily accessible from the School's website, as described in Section 8.9 of this Charter Contract.

### **Section 8.5 Punishment of Pupils**

Pursuant to Section 302A-1141, HRS, no physical punishment of any kind may be inflicted upon any pupil.

### **Section 8.6 Complaints Process**

The School shall adopt and adhere to a process for resolving public complaints which shall include an opportunity for complainants to be heard by the School's Governing Board. For matters concerning the operations and administration of the School, the decision by the School's Governing Board shall be considered final, except where the complaint pertains to a possible violation of any law or breach of this Charter Contract. In the case of a possible violation of law or breach of the Charter Contract, the Commission or other appropriate state agency may investigate the validity of the complaint to determine whether additional actions are needed. The complaints process shall be readily accessible from the School's website, as described in Section 8.9, of this Charter Contract.

### **Section 8.7 Contracting with an Educational Service Provider**

The School shall not enter into a contract or subcontract for comprehensive management or administration services of its core educational program or services, unless otherwise agreed to in writing by the Commission or identified in Exhibit A (Educational Program) and reviewed and approved as to form by the School's Deputy Attorney General. Such contracting is conditioned upon the School

developing a management agreement with the educational service provider that meets the conditions in Exhibit C to this Contract; provided requirements of a School Improvement Grant or other federal grant shall control.

### **Section 8.8 Transportation**

The School may provide its own transportation services, provide transportation through an agreement or contract with a private provider, or access any other school transportation provided to it by law. Pursuant to Section 286-181, HRS, any transportation services provided by the School shall follow the safety rules and standards relating to school vehicles, equipment, and drivers adopted by the Department of Transportation.

### **Section 8.9 School Policies**

The School shall make the current versions of the following policies and procedures readily accessible from its website:

- a. Admissions policies and procedures, as described in Section 7.3 of this Charter Contract;
- b. Student conduct and discipline policy, as described in Section 8.4 of this Charter Contract;
- c. Complaints procedures, as described in Section 8.6 of this Charter Contract;
- d. Attendance policies and procedures, as described in Section 7.5 of this Charter Contract;
- e. Procurement policy, as described in Section 6.3 of this Charter Contract;
- f. Safety plan, as described in Section 9.1 of this Charter Contract;
- g. Financial management policies and procedures, as described in Section 6.4 of this Charter Contract; and
- h. Personnel policies, as described in Section 12.8 of this Charter Contract.

## **SECTION IX. HEALTH AND SAFETY**

### **Section 9.1 Safe Environment**

The School shall maintain a safe learning environment at all times. The School shall develop and adhere to a safety plan, which shall be readily accessible from the School's website, as described in Section 8.9 of this Charter Contract.

### **Section 9.2 Health Clearances**

The School shall comply with Sections 302A-1154 to 302A-1163, HRS, and Chapter 11-157, HAR, requiring documentation that each student has received immunizations against communicable diseases, is free from tuberculosis in a communicable form, and has received a physical examination. Pursuant to Section 302A-1161, HRS, if a child does not complete the immunizations or physical examination required within the period provided by Section 302A-1155, HRS, after provisional entry into school, the School shall notify the parent or guardian of the child that if the required immunizations or physical examination is not completed within thirty days of the date of the notice, the child shall not be admitted to the School.

### **Section 9.3 Student Health**

The School shall provide appropriate first aid care for ill and injured students. The School may recommend that parents seek the help of medical professionals or appropriate health agencies for cases beyond its scope of responsibility.

### **Section 9.4 Reporting of Crime-related Incidents**

The School shall adopt policies and procedures to:

- a. Require a report to appropriate authorities from a teacher, official, or other employee of the School who knows or has reason to believe that an act has been committed or will be committed, which:
  - (1) Occurred or will occur on School property during School hours or during activities supervised by the School; and
  - (2) Involves crimes relating to arson, assault, burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;
- b. Establish procedures for reporting any incident; and
- c. Impose appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of School officials.

### **Section 9.5 Use of Tobacco Prohibited**

Pursuant to section 302A-102, HRS, the School shall prohibit the use of tobacco at its school or at School functions.

## **SECTION X. STUDENT RECORDS AND DATA**

### **Section 10.1 Educational Data**

Pursuant to Section 302D-23, HRS, the School shall comply with the minimum educational data reporting standards established by the BOE and with additional data reporting required by the Commission in its oversight of this Contract and shall ensure all data is accurate and complete.

### **Section 10.2 Reporting of Data and School Information**

The School shall provide to the Commission, in the format and timeframe prescribed by the Commission, any data necessary and reasonably required by the Commission to meet its oversight and reporting obligations. The Commission shall provide by June 1 the list of anticipated reports and due dates and provide this information to the School.

### **Section 10.3 Commission's Annual Report to the BOE and Legislature**

Pursuant to Section 302D-17, HRS, the Commission shall publish and provide an annual report on the School's performance in accordance with the performance frameworks.

### **Section 10.4 Permitted Disclosures and Users by Operators**

Pursuant to Section 302A-500, HRS, the School shall be responsible for notifying operators, as defined in Section 499, HRS, with access to student data and information of the operators' statutory responsibilities and restrictions.

## **SECTION XI. FACILITIES**

### **Section 11.1 Location**

The School shall provide educational services, including the delivery of instruction, primarily at locations identified in Exhibit A.

### **Section 11.2 Emergency Relocation**

In the event of natural disasters, emergencies, and/or damage to a School's facilities, the School may provide educational services at temporary locations not identified in Exhibit A, provided the School notify the Commission of the location prior to the start of services at the temporary location.

### **Section 11.3 Occupancy Rights**

The School shall possess the lawful right to occupy and use the premises on which the School operates. The School shall provide the Commission a copy of the School's lease, deed, or other occupancy agreement for all locations identified in Exhibit A, except if the School occupies State or DOE school facilities.

### **Section 11.4 Compliance with Codes**

The School shall be located in facilities that comply with all applicable State and county building, zoning, fire, health, and safety code requirements.

If the School is located in facilities other than State or DOE facilities, the School shall obtain and maintain any necessary certificates or permits required for use and occupancy of the School's facilities from the applicable building, zoning, fire, health, and safety authorities. The School shall immediately notify the Commission in the event that any such certificate or permit is jeopardized, suspended, or revoked.

The School shall comply at all times with the occupancy capacity limits set by zoning, building, fire, and other applicable regulations.

### **Section 11.5 Relocation or Expansion of Facilities**

The School's relocation to different or additional facilities for non-emergency reasons shall constitute a material change in the Contract and shall require prior written approval by the Commission pursuant to Section 4.2 of this Charter Contract. Approval shall be contingent upon meeting the following conditions:

- a. Submission of enrollment projections for the upcoming school year, should the School seek to increase enrollment;
- b. Submission to the Commission of a Certificate of Occupancy for the new facilities prior to the first day of occupancy;
- c. Submission to the Commission of a lease, deed, or other document showing the School possesses the right to occupy the new premises;
- d. Submission to the Commission of documentation that the new facilities meet applicable health, safety, fire, building, and zoning code requirements; and

- e. Submission to the Commission of documentation that the new facilities are of sufficient size to safely house the maximum anticipated enrollment.

## **SECTION XII. CHARTER SCHOOL PERSONNEL**

### **Section 12.1 Collective Bargaining**

All employees of the School shall be subject to collective bargaining under Chapter 89, HRS, and shall comply with the master agreements as negotiated by the State; provided that the School may enter into supplemental collective bargaining agreements that contain cost and non-cost items to facilitate decentralized decision-making. The School shall provide a copy of any supplemental collective bargaining agreement to the Commission or the DOE.

### **Section 12.2 Nondiscrimination**

The School, including any employees or agents of the School, shall not engage in any discrimination that is prohibited by any applicable federal, State, or city and county law, including but not limited to Section 378-2, HRS.

### **Section 12.3 Teacher Credentials**

Pursuant to Section 302A-804, HRS, the School shall hire licensed teachers that meet the applicable State licensing requirements consistent with federal law and requirements, State law, and collective bargaining agreements, as such requirements may be amended.

### **Section 12.4 Personnel Data**

The School shall maintain accurate and complete personnel and payroll information and shall provide such information to the Commission, in the format and timeframe prescribed by the Commission, as required for the Legislature, DOE or any State agency including but not limited to the Department of Budget & Finance, Employees' Retirement System, and the Hawaii Employer-Union Health Benefits Trust Fund. The School shall ensure each employee that qualifies for State benefits receives such benefits.

### **Section 12.5 Evaluations**

Pursuant to federal and state law and policy, the School is responsible for implementing principal and teacher evaluation systems. The School shall ensure that the evaluation systems are in compliance with all applicable laws, regulations, and policies, including, but not limited to the State's Every Student Succeeds Act (ESSA) plan and collective bargaining requirements.

### **Section 12.6 Non-Instructional Employees**

The School shall ensure that the School's non-instructional employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Charter Contract, and that all applicable licensing and operating requirements imposed or required under federal, State, or city and county laws, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied, as well as any applicable collective bargaining agreements.

**Section 12.7 Criminal History Checks**

The School shall conduct criminal history checks, administered by the Hawaii Criminal Justice Data Center in accordance with Section 846-2.7, HRS, solely for the purpose of determining whether a prospective employee or agent is suitable for working in close proximity to children. All such decisions shall be subject to applicable federal laws and regulations currently or hereafter in effect. The School may terminate the employment of any employee or deny employment to an applicant if the person has been convicted of a crime, and if the School finds by reason of the nature and circumstances of the crime that the person poses a risk to the health, safety, or well-being of children.

**Section 12.8 Personnel Policies**

The School's Governing Board shall adopt and adhere to personnel policies for all school employees. These policies must be made readily accessible from the School's website, as described in Section 8.9 of this Charter Contract.

## **SECTION XIII. IMMEDIATE NOTICE**

### **Section 13.1 School Emergency Closure**

The School shall promptly notify the Commission, the appropriate county civil defense office(s), and the public of any circumstance requiring the closure of the School, including, but not limited to, a natural disaster or destruction of or damage to the School facility.

### **Section 13.2 Mandatory Notification**

The School shall notify the Commission within two calendar days when it has knowledge of any of the following:

- a. Any condition that may cause the School to vary from the terms of this Charter Contract or applicable requirements, federal and/or State law;
- b. The arrest of any members of the School Governing Board or School employees for a crime punishable as a felony or any crime related to the misappropriation of funds or theft;
- c. A court judgment that any members of the School Governing Board or School employees have been found guilty; plead no-contest, or accepted a deferred acceptance of a no-contest plea;
- d. Any complaint, citation, or default filed against the School by a government agency or lessor;
- e. Any inaccuracy found in enrollment count or other data provided to the Commission;
- f. The School receives a notice or is otherwise informed that the School is a party to a legal suit;
- g. Severe damage to a School's facilities that render the facilities unusable and require the School to relocate; or
- h. A default on any obligation, which shall include debts for which payments are past due by ninety (90) calendar days or more.

## SECTION XIV. OVERSIGHT

### Section 14.1 Monitoring

The Commission shall continually monitor the performance and legal compliance of the School. The Commission shall have the authority to conduct oversight activities that enable the Commission to fulfill its responsibilities under Chapter 302D, HRS, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of Chapter 302D, HRS, and adhere to the terms of this Contract.

### Section 14.2 Monitoring Related to Federal Programs

The School shall allow the DOE access to and provide any information needed to meet its oversight and reporting obligations as the SEA or LEA. The DOE may monitor the School for compliance with programmatic or fiscal requirements, including requiring reports or other documentation, under any applicable law related to federal programs, including but not limited to special education.

### Section 14.3 Access to Records

Consistent with the school's obligations under FERPA, the School shall make all School records open to inspection by the Commission, the DOE, the Office of the Auditor, law enforcement officials, contractors, or any other federal or State regulatory agency within five business days after request is made, or sooner if required by law.

### Section 14.4 Site Visits

The Commission may visit the School at any time and may, at its discretion, conduct site visits and monitoring. When appropriate, the Commission shall make reasonable efforts to provide notice of visits. Such site visits may include any activities reasonably related to fulfillment of the Commission's oversight responsibilities including, but not limited to, inspection of the facilities; audit of financial books and records; inspection of records maintained by the School; interviews and observations of the principal, staff, school families, staff of an affiliated nonprofit or educational service provider and community members; and observation of classroom instruction.

### Section 14.5 Intervention

Intervention(s) may be initiated when the Commission finds that the School has failed to:

- a. Comply with applicable laws, rules, policies, or procedures;
- b. Comply with the terms and conditions of this Contract; or
- c. Meet performance expectations as set forth in any of the Performance Frameworks.

Upon finding that a School has failed to meet legal or contractual compliance obligations, the Commission and the School shall follow the Intervention Protocol (Exhibit D). Failure to invoke the Intervention Protocol shall not be (i) construed as a waiver or relinquishment of any requirement under applicable laws, rules, policies, procedures, contractual terms and conditions, or performance expectations; or (ii) deemed a necessary precedent to non-renewal or revocation.

## **SECTION XV. RENEWAL, NON-RENEWAL, REVOCATION, CLOSURE, AND DISSOLUTION**

### **Section 15.1 Renewal and Non-renewal**

Charter contract renewal and non-renewal shall follow the requirements set in Section 302D-18, HRS. The Commission's renewal and non-renewal criteria and processes are provided within this charter contract as Exhibit E.

### **Section 15.2 Revocation**

The Commission may revoke a charter contract pursuant to Section 302D-18, HRS, and Chapters 8-5-505-15, HAR.

### **Section 15.3 School-Initiated Closure**

Should the School choose to voluntarily surrender this Contract before the end of the Contract term, it may do so in consultation with the Commission at the close of any school year and upon written notice to the Commission given at least ninety (90) days before the end of the school year.

### **Section 15.4 Dissolution**

In the event that the School ceases operation for any reason, including but not limited to non-renewal, revocation, or voluntary surrender of this Contract, the School shall cooperate with the Commission in scheduling cessation of operations and shall comply with the Commission's closure policies and protocol.

### **Section 15.5 Financial Insolvency**

Pursuant to Section 302D-28.5, HRS, any public charter school that becomes financially insolvent shall be deemed to have surrendered its charter. For the purpose of this provision, the School shall be determined to be financially insolvent when it is unable to pay its staff when payroll is due. The School shall cooperate with the Commission in ensuring the orderly closure of the School. The School shall comply with the Commission's closure policies and protocol, once adopted by the Commission.

### **Section 15.6 Remaining Assets**

In the event that the School closes, the School shall return any remaining public assets to the State, provided that any outstanding obligations of the School are fulfilled first pursuant to Section 302D-19, HRS.

**SECTION XVI. AGREEMENT**

IN WITNESS WHEREOF, the Parties have made and entered into this Contract as of the effective date.

**STATE PUBLIC CHARTER SCHOOL COMMISSION**

**[SCHOOL NAME]**

\_\_\_\_\_  
Signature

Sione Thompson

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

## **APPENDICES**

Exhibit A: Educational Program

Exhibit B: Performance Frameworks (Academic, Financial, and Organizational)

Exhibit C: Education Service Provider Requirements

Exhibit D: Intervention Protocol

Exhibit E: Renewal, Non-renewal, and Revocation

**Exhibit A: Educational Program**

**Exhibit B: Performance Frameworks (Academic, Financial, and Organizational)**

## EXHIBIT B

### ACADEMIC PERFORMANCE FRAMEWORK

The Academic Performance Framework consists of two sections: Student Academic Outcomes and Value Added.

#### 1. Student Academic Outcomes

This section contains the measures that are required by Section 302D-16, HRS including:

- a) **Student academic proficiency:** schools will set a target for the percentage of students who score at the levels of proficient or above on the statewide assessments in English Language Arts or Hawaiian Language Arts and math.
- b) **Student academic growth:** schools will set a target for growth based on statewide assessment results, as measured under the state ESSA plan for federal reporting and accountability or revised state accountability system (i.e., Strive HI)<sup>1</sup>.
- c) **Achievement gaps in proficiency between major subgroups:** schools will set a target for high-needs proficiency rates in order to close the achievement gap between the non-high needs and high needs student subgroups.<sup>2</sup>
- d) **College and career readiness:** schools will set a target for each college and career readiness indicator for each grade division served.
  - a. For high schools and schools with a high school division, the readiness measures must include the four-year graduation rate.<sup>3</sup> In addition, schools may also add the five-year graduation<sup>4</sup> and/or college-going rates.<sup>5</sup>

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<sup>1</sup> If this measure is not calculated using the current growth model for the state ESSA plan for federal reporting and accountability or revised state accountability system (i.e., Strive HI), this measure will not be calculated for the Academic Performance Framework until a calculation methodology for growth is determined and approved by the Commission.

<sup>2</sup> High needs students include the following full school year students who tested: economically disadvantaged, students with disabilities (IDEA only), English Language Learners, recent exits (2 years) for students with disabilities and English Language Learner. Non-high needs students comprise of all remaining full school year students who tested. See [2015-16 Strive HI Indicators and Measures Technical Report](#) for more details.

<sup>3</sup> The four-year graduation rate is calculated using a four-year adjusted cohort graduation rate (ACGR) methodology. The graduation rate reported is lagged by one year. The rate reported for 2015-2016 results are based on the four-year cohort graduating by the end of 2014-2015.

The four-year ACGR = 
$$\frac{\text{\# of on-time graduates in a year}}{\text{\# of first time entering 9<sup>th</sup> graders + transfers in} - \text{transfers out}}$$

- Graduates are students who receive a diploma within four years
- on-time for all students is four years
- graduation requirements may be completed during the summer of the given final year

- b. For middle schools and schools with middle school divisions, schools may choose any measure that is consistent with the middle school college and career readiness measures used or captured by the DOE such as chronic absenteeism<sup>6</sup> or average daily attendance<sup>7</sup>, ACT Aspire exam, eighth graders taking and passing Algebra 1, or the PSAT.
- c. For elementary divisions, schools will set a target for attendance and may choose between chronic absenteeism, or average daily attendance rates as defined above.

**Optional other measures:** optional measures are not required by Section 302D-16, HRS. They must focus on valid and reliable student outcome data and may be school-developed or drawn from existing data sources such as DOE data or school-selected formative assessment.

When selecting measures within these categories, the availability and reliability of the data are important, and sometimes limiting, factors. For this reason, the Academic Performance Framework measures pull from Strive HI data and other data collected by the DOE for all public schools statewide.

- 
- GED certificates of completion and other school-based certificates do not count as graduates for this calculation
  - students who transfer in will be added to the school’s appropriate graduating cohort
  - students who transfer out must be documented by the sending school with an official transcript from the receiving school, only then can the student be removed from the cohort, students whose status is unknown or dropped out of the system are non-graduates
  - students who are retained in grade 9 count only in their “first time grade 9” cohort.

See [2015-16 Strive HI Indicators and Measures Technical Report](#) for more details.

<sup>4</sup> The five-year graduation rate is an extended year adjusted cohort graduation rate that accounts for graduates for an additional, fifth year. This rate is calculated following the same methodology used for the four-year adjusted cohort graduation rate. See [2015-16 Strive HI Indicators and Measures Technical Report](#) for more details.

<sup>5</sup> This metric reports the percent of high school diploma earners with confirmed postsecondary enrollment (based on National Clearing House data) within 16 months after high school graduation. See [College and Career Readiness Indicators Report Class of 2015 Technical Report](#) for more details.

<sup>6</sup> Chronic absenteeism is based on the number of full school year students (as defined by DOE) enrolled at a school (denominator) and the number of full school-year students who were absent, excused or unexcused, for 15 days or more during the full school year period (numerator). See [2015-16 Strive HI Indicators and Measures Technical Report](#) for more details.

<sup>7</sup> Average Daily Attendance = (sum of full day present attendance days x 100) / (sum of the total number of possible school attendance days for each active student).

Excused and unexcused absences are treated as absences in the attendance calculation.

Calculation example: There are 30 students at your school and it is the 10th day of the new school year. During the first 10 days of school 9 students missed a full school day. The denominator is based on the total number of possible school days: 30 students x 10 days = 300. The numerator is 30 students x 10 days of school/ 9 days of absences = 291. (291 x 100) / 300 = 97%

For each measure, schools will work with staff to set annual target ranges, and interim targets if required by the school's charter contract. These ranges will be developed by analyzing a school's historical data, as well as comparative data for each school's geographic complex and all schools statewide.

## **2. Value Added**

The second section of the Academic Performance Framework captures the work that schools are doing to add value to their school community or the education system at large. Each school must create a minimum of one Value Added goal. This section can measure the implementation of systems designed to increase program effectiveness, innovative practices and those that are aligned to the school's mission and vision. These goals will be specifically articulated and measurable and will include implementation timelines.

### **Evaluation and Reporting**

For each measure included in its Academic Performance Framework, schools will set targets for each year of their contract. The Commission will publicly report these targets, as well as each school's performance on the measures, to the extent possible while protecting the privacy and confidentiality of students' data. The Commission will also report whether the school met its annual target, exceeded the target, or did not meet the target.

If the School does not achieve results within the set target range, the School is subject to the Intervention Protocol, provided in Exhibit D of this Charter Contract.

### **Modifications to the Academic Performance Framework During the Contract Period**

Modifications can be made to the APF during the contract period in limited circumstances:

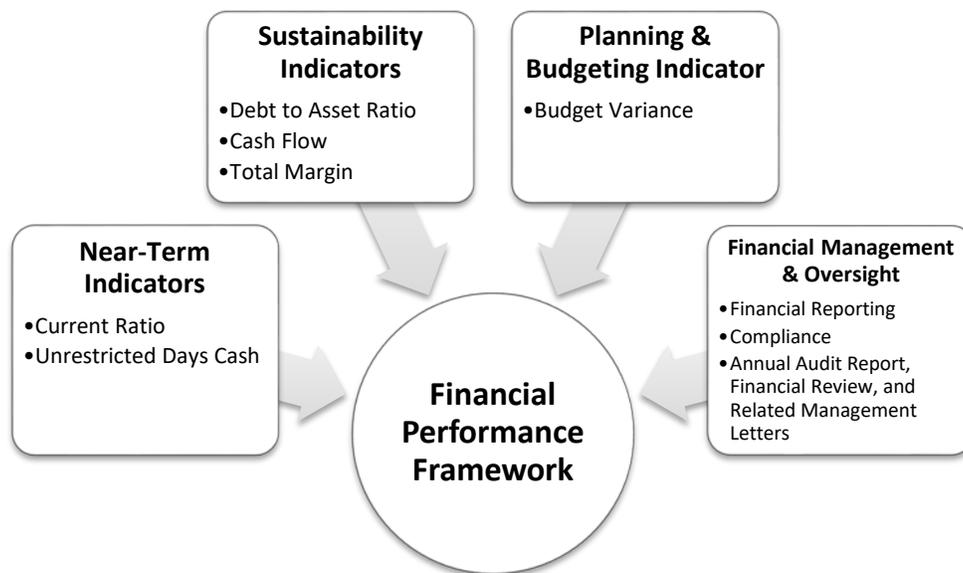
1. Modifications to the student outcome targets, which can be made when a school experiences a major shift in demographics.
2. Measures in both the Academic Student Outcomes and Value Added sections may be modified or added,
3. Academic Student Outcome targets may be renegotiated should the approved ESSA state accountability plan include extensive deviations from the methodology currently described in this submittal.

New Student Academic Outcome measures may be added between March 1<sup>st</sup> and May 15<sup>th</sup> for implementation the following year. Value Added measures may be added or modified after the school conducts a comprehensive needs assessment or similar strategic planning, but no later than July 1<sup>st</sup>.

## EXHIBIT B

### FINANCIAL PERFORMANCE FRAMEWORK

The Financial Performance Framework (“Framework”) serves as a tool for the Commission to assess the financial health and viability of charter schools in its portfolio. The framework intends to provide a financial frame of reference based on current and past financial performance of charter schools. The indicators used in the framework are based on industry standard financial measures (e.g. ratios, variances) designed to be viewed in the aggregate with other complementary and supplementary information (e.g. timely and accurate financial and reporting practices, management practices). No single indicator or point in time data point gives a full picture of the financial situation of a school. Taken together, however, the indicators provide a qualitative assessment of the school’s near-term financial health, mid-term capacity, and long-term financial sustainability.



### Risk-Based Approach

The framework adopts a risk assessment model as part of ongoing oversight and monitoring of charter schools’ fiscal activities, and renewal decision-making. The model aligns the framework to the unique funding and governance environment for charter schools in the State of Hawai’i. This risk-based approach will help identify areas of strength and weakness, highlighting controls that are designed to mitigate risks.

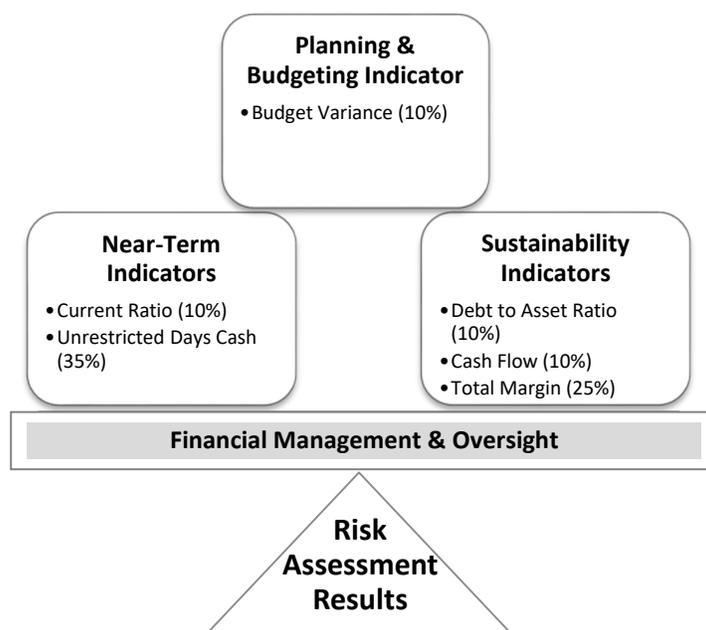
School(s) will be closely monitored if there is heightened risk of financial problems. Financial monitoring may include, but not limited to, request for reports or other documentation, inquiries through written or telephone communications, desk audits, or on-site visits, announced or otherwise. Moreover, a school may be requested to develop an appropriate corrective action plan in accordance with the Intervention Protocol (**Exhibit D**) to address any monitoring issues identified during the risk assessment. The corrective action plan provides a school an opportunity to explain the issue(s); identify measurable solution(s); identify person(s) who will be responsible for each solution; set timelines; and monitor the progress of the corrective action plan.

## Annual Risk Assessment Process

The annual risk assessment evaluates whether the financial viability of a school is at-risk based on the Commission’s review of financial information which will be drawn from the school’s annual audited financial statements or financial review. The inclusion of a “component unit” (an affiliated non-profit entity) may apply when a school’s annual audited financial statements include the presentation of reporting the audited component unit. The Commission’s assessment may also include other financial information and/or a more detailed examination of the school’s financial position and practices, as needed. The Commission may also consider the more current and more detailed information to determine whether the risk assessment result is still applicable throughout the assessment period and the degree to which it is, in fact, an indication of financial risk or distress or mitigation.

The risk assessment will focus on six indicators, or measures based on the National Association of Charter School Authorizers (NACSA) standards. Each indicator will be assessed on a scale from 1 to 5, with 1 being the lowest risk and 5 the highest risk. All six indicators will collectively make up a school’s overall risk level. The annual risk assessment result for a school will be determined using a balanced weighted formula utilizing the individual scores calculated for each indicator as follows:

$$(Current\ Ratio \times 0.10) + (Unrestricted\ Days\ Cash \times 0.35) + (Debt\ to\ Asset\ Ratio \times 0.10) + (Cash\ Flow \times 0.10) + (Total\ Margin \times 0.25) + (Budget\ Variance \times 0.10)$$



The individual and final risk assessment results will be represented as one of five categories based on the school’s risk assessment calculations as color-coded below and will be rounded to the nearest whole number.

Low	Acceptable	Moderate	High	Significant
1	2	3	4	5

## Near Term Indicators

### Current Ratio

$$\text{Current Ratio} = \text{Current Assets} \div \text{Current Liabilities}$$

The current ratio shows the relationship between a school’s current assets and current liabilities. Current assets are balance sheet accounts (e.g. cash, receivables) that include the value of all assets that are expected to be converted to cash through normal operations within the current fiscal year. Current liabilities represent obligations (e.g. payables, accrued payroll, accrued vacation) that are payable in cash within a fiscal year. This ratio gives an indication of a school’s ability to pay its obligations over the next twelve months. A school may be at-risk if it is unable to meet its current obligations.

This indicator accounts for **10 percent** of a school’s aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Ratio is greater than (>) 1.5	Ratio is between 1.35 – 1.5	Ratio is between 1.2 – 1.35	Ratio is between 1.0 – 1.2	Ratio is less than (<) 1.0

### Unrestricted Days of Cash on Hand

$$\text{Unrestricted Days Cash} = \text{Days Cash} \div [(\text{Total Expenses} - \text{Depreciation Expense}) \div 365]$$

The unrestricted days of cash on hand provides the number of days a school can pay its current expenses without another inflow of cash. Cash balances fluctuate since schools can expend and receive money on an almost daily basis. It indicates whether a school maintains a sufficient cash balance to meet its cash obligations. A school may be at-risk if there is insufficient cash to meet its cash obligations.

The indicator looks at a fixed point in time (the time the financial statement is prepared) and a trend over a period of time. Although this indicator is at a fixed point in time, it tells whether a school may have challenges in meeting its cash obligations. Note that this indicator looks at unrestricted cash, not cash that already has been earmarked for a specific purpose, such as renovations or facilities.

This indicator accounts for **35 percent** of a school’s aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Days Cash is more than 60 days and having an upward or downward trend over three years or more	Days Cash is between 50 – 60 days and having an upward or downward trend over three years or more	Days Cash is between 30 – 50 days and having an upward or downward trend over three years or more	Days Cash is between 20 – 30 days and having an upward or downward trend over three years or more	Days Cash is less than 20 days and having a downward trend over three years or more

## Sustainability Indicators

### Debt to Asset Ratio

$$\text{Debt to Asset Ratio} = \text{Total Liabilities} \div \text{Total Assets}$$

The Debt to Asset Ratio compares a school's financial liabilities against the assets it owns. A lower ratio generally indicates stronger financial health. A higher ratio indicates that the school may be at-risk of not being able to pay back its debts. It is generally accepted indicator of potential long-term financial issues.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Ratio is less than (<) 0.2	Ratio is between 0.2 – 0.4	Ratio is between 0.4 – 0.5	Ratio is between 0.5 – 0.75	Ratio is greater than (>) 0.75

### Cash Flow

$$\text{Cash Flow} = \text{Year-end Cash Balance} - \text{Beginning Year Cash Balance}$$

Cash Flow measures a school's change in cash balance from one period to another. This indicator is similar to days' cash on hand, but it provides insight into a school's long-term stability, as it helps to assess a school's sustainability over a period of time in an uncertain funding environment. A positive cash flow over time generally indicates increasing financial health and sustainability.

This indicator and accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Current Year Cash Flow is positive (+) and having an upward trend over three years or more	Current Year Cash Flow is positive (+) and having an upward or a down trend over three years or more	Current Year Cash Flow is either positive or negative (+/-) and having an upward or a downward trend over three years or more	Current Year Cash Flow is negative (-) and having an upward or a downward trend over three years or more	Current Year Cash Flow is negative (-) and having a downward trend over three years or more

## Total Margin

$$\text{Total Margin} = \text{Net Income} \div \text{Total Revenue}$$

Total Margin measures the surplus or deficit a school yields out of its total revenues. This indicator is important because a school cannot operate at a deficit for a sustained period of time without the risk of closure. The intent of this indicator is not for the schools to be profitable, but is important for charter schools to operate within its available resources in a particular year and to build a reserve to support growth and sustainability.

This indicator is calculated by dividing net income by total revenue and accounts for **25 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Current Year Margin is positive (+) and having an upward trend over three years or more	Current Year Margin is positive (+) and having an upward or a downward trend over three years or more	Current Year Margin is either positive or negative (+/-) and having an upward or a downward trend over three years or more	Current Year Margin is negative (-) and having an upward or a downward trend over three years or more	Current Year Margin is negative (-) and having a downward trend over three years or more

## Planning & Budgeting

### Budget Variance

$$\text{Budget Variance} = \text{Actual Total Revenues} \div \text{Projected Total Revenues in the Charter School's Board-Approved Budget}$$

The budget variance depicts actual versus projected incoming revenues for a fiscal year. This indicator is important because revenues drive the development of a school's budget. While the per-pupil funding is the primary revenue source for charter schools, there are other sources (e.g. federal funds, grants, other state funds) that provide the basis for determining costs such as staffing and supplies. A budget based on revenues that are significantly more than its actual revenues may be at-risk of not meeting all of its budgeted expenses. Budgeted revenues that do not exceed actual revenues would not have a significant impact to the risk assessment rating scale.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Variance is greater than (>) 99%	Variance is between 96% – 98%	Variance is between 94% – 95%	Variance is between 91% – 93%	Variance is less than (<) 90%

## **Financial Management and Oversight**

### **Compliance**

The Commission ensures that the school complies with applicable laws, rules, regulations and provisions of the charter contract relating to financial reporting requirements, and to financial management and oversight expectations as evidenced by an annual independent audit or review, including but not limited to:

- Complete and on-time submission of financial reports, including annual budget, revised budgets (if applicable), periodic financial reports as required by the authorizer and any reporting requirements if the board contracts with an Education Service Provider (ESP)
- On-time submission and completion of the annual independent audit and corrective action plans, if applicable
- No charging of tuition
- Adequate management and financial controls
- All reporting requirements related to the use of public funds
- An unqualified audit opinion
- An audit devoid of significant findings and conditions, material weaknesses or significant internal control weaknesses
- An audit that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report

If the School does not comply with the requirements of this Financial Performance Framework, the School is subject to the Intervention Protocol, provided in Exhibit D of this Charter Contract.<sup>1</sup>

As provided in the Charter Contract:

14.1 Monitoring. The Commission shall continually monitor the performance and legal compliance of the School. The Commission shall have the authority to conduct or require oversight activities that enable the Commission to fulfill its responsibilities, so long as those

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<sup>1</sup> in accordance with **§302D-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.

responsibilities are consistent with the intent of Chapter 302D, HRS, and adhere to the terms of this Charter Contract.

## **EXHIBIT B**

### **ORGANIZATIONAL PERFORMANCE FRAMEWORK**

The Organizational Performance Framework serves as the means by which the Commission addresses one of an authorizer's core responsibilities: protecting the public interest. The framework ensures that charter schools meet all applicable federal, state, and local laws and regulations as well as contractual requirements.

The Commission pledges to exercise its best efforts to meet NACSA's standards on performance evaluation and compliance monitoring by implementing an accountability system that effectively streamlines federal, state, and local performance expectations and compliance requirements while protecting schools' legally entitled autonomy and minimizing school's administrative and reporting burdens.

The Organizational Performance Framework requires the School to complete the Assurance of Compliance Statement (included in this framework) on an annual basis. The Assurance of Compliance Statement identifies the specific federal, state, and local laws and regulations and contractual requirements that the School is accountable to. Regardless of the specific references to law, rule, regulation, or contractual provision contained in the Statement, the School is required comply with all relevant laws and regulations at all times.

The Commission will evaluate and assess performance under the framework by:

1. Conducting audits of any compliance requirements associated with the references identified in the Statement;
2. Conducting at least one school site visit during the term of the Charter Contract;
3. Requiring submission of documentation verifying compliance through the Commission's online compliance management system; and
4. Reporting on the School's fulfillment of compliance requirements specified in this framework.

The level of oversight the School will receive may vary during the term of the Charter Contract. If the School does not comply with the requirements of this Organizational Performance Framework, the School is subject to the Intervention Protocol, provided in **Exhibit D** of this Charter Contract.

Within the first quarter of each fiscal year, the Commission will provide an annual Organizational Framework Report to the School that covers the previous year. The report will include a narrative of the School's performance under the framework, including any compliance breaches and actions required through the Intervention Protocol.

## ASSURANCE OF COMPLIANCE STATEMENT

This document provides assurances to the Commission that the School is in compliance with the laws, rules, regulations, policies, and Charter Contract provisions set forth below. This document will be assigned to the School through the Commission's online compliance management system and must be completed, signed, and dated by the School's board chair and school leader annually.

In addition to this Assurance of Compliance Statement, the School is required to comply with all relevant laws and regulations at all times, regardless of the specific references in this document.

The School should read through each reference below, and then check the corresponding box to assure the Commission that the School is in compliance with the specified items identified below for the specified school year. A School with compliance breaches that require the Intervention Protocol will need to resolve the compliance breach by the end of the school year or be in the process of implementing a corrective action plan that resolves the compliance breach.

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### GOVERNANCE

- Section 302D-12(a), HRS: Governing Board Composition
- Section 302D-12(c), HRS: Governing Board Composition- Chair
- Section 302D-12(b), HRS: Governing Board Recruitment
- Section 302D-12(f), HRS: Oversight
- Section 302D-12(g), HRS: Procurement
- Section 302D-12(h), HRS: Open Meeting Requirements
- Section 302D-12(i), HRS: State Code of Ethics

### HEALTH AND SAFETY

- Charter Contract Section 11.4: Facilities- Compliance with Codes
- Charter Contract Section 9.1: Safe Environment
- Chapter 12-45.2, Hawaii Administrative Rules: State Fire Code

### ACCESS AND EQUITY

- Section 302D-34(a), HRS: Enrollment
- Charter Contract Section 7.3- Admissions
- Americans with Disabilities Act: 42 U.S.C. 12101
- Individuals with Disabilities Educational Act: 20 U.S.C. 1400 et seq.
- Section 302D-30, HRS: Special Education Services
- Section 504 of the Rehabilitation Act of 1973: 29 U.S.C 794
- Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974

**STUDENT CONDUCT AND DISCIPLINE**

- Section 302A-1132, HRS: Compulsory Education Law
- Section 302A-1134, HRS: Exclusion from School
- Section 302A-1134.6, HRS: Zero Tolerance Policy
- Section 302A-1141, HRS: Punishment of Students
- Section 302A-1141.3, HRS: Seclusion and Chemical and Mechanical Restraint Prohibited
- Section 302A-1141.4, HRS: Use of Physical Restraint Limited
- Section 709-309(2), HRS: Use of force by persons with special responsibility for care, discipline, or safety of others

**PERSONNEL**

- Section 302D-33, HRS: Criminal History Record Checks
- Section 302A-804, HRS: Teacher Credentials
- Charter Contract Section 9.4: Reporting Crime-related Incidents

**SCHOOL OPERATIONS**

- Family Educational Rights and Privacy Act (FERPA) of 1974
- Charter Contract Section 7.5: Attendance
- Charter Contract Section 7.8: Withdrawal and Transfer
- Charter Contract Section 8.6: Complaints Process
- Charter Contract Section 8.9: School Policies
- Board of Education Policy 102-15: High School Graduation Requirements and Commencement *(if applicable)*
- Section 286-181, HRS: Pupil Transportation Safety *(if applicable)*

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School Governing Board Chair

Date

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School Director

Date

**Exhibit C: Education Service Provider Requirements**

## **EXHIBIT C**

### **EDUCATIONAL SERVICE PROVIDER REQUIREMENTS**

For the purpose of this section an Educational Service Provider (ESP) is defined as a non-profit or for-profit entity that is contracted by the School to provide services that would otherwise be handled by employees of the School, which include, but are not limited to, operational back office functions and services related to the instructional design of the School, in return for fees. ESP arrangements sometimes give a third party substantial responsibility for the operation of a charter school and control over the school's finances.

While the Commission is not responsible for monitoring that contractual relationship, it does have an obligation to ensure that the School's governing board retains its statutory responsibilities and that the School-service provider relationship will not inhibit the Commission from fulfilling its oversight responsibilities. The following requirements ensure that both the School's governing board and the Commission retain authority to fulfill their legal rights and responsibilities under the Charter Contract and applicable law.

1. The ESP agreement shall be subject to, and shall incorporate by reference, the terms and conditions of the Charter Contract.
2. The term of the ESP agreement shall not exceed the term of the Charter Contract.
3. No provision of the ESP agreement shall interfere with the duty of the governing board to exercise its statutory, contractual, and fiduciary responsibilities governing the operation of the School. No provision of the ESP agreement shall prohibit the School's governing board from acting as an independent, self-governing public body, or allow decisions to be made other than in compliance with Chapter 302D, HRS.
4. The ESP agreement shall require the ESP to defend, indemnify, and hold harmless the State of Hawaii, the Commission and the School, and their officers, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys' fees, and all claims, suits and demands therefore, arising out of or resulting from the acts or omissions of the ESP or the ESP's employees, officers, agents, or subcontractors under the ESP agreement. The ESP agreement shall not require the School to defend, indemnify or hold harmless the ESP. The ESP agreement shall contain insurance and indemnification provisions outlining the coverage the ESP will obtain.
5. The ESP agreement shall describe the specific services for which the ESP is responsible and shall clearly delineate the respective roles and responsibilities of the ESP and the School in the management and operation of the School, including development, approval, and oversight of the School's budget; development, approval, and oversight of the School's curriculum; and oversight of the ESP's services.

6. The ESP agreement shall expressly provide that the School retains, at all times, ultimate responsibility for the School's budget and curriculum.
7. The ESP agreement shall include procedures by which the ESP will be accountable to the School including expressly addressing how the School will evaluate and hold the ESP accountable in relation to the Performance Frameworks (Exhibit B).
8. The ESP agreement shall be terminable by the School in accordance with its established termination procedures.
  - a) Upon default by the ESP, including without limitation any act or omission of the ESP that causes a default under the Charter Contract or that causes the School to be in material violation of applicable law; or
  - b) For other good cause as agreed by the School and the ESP.
9. The ESP agreement shall provide that the financial, educational, and student records pertaining to the School are School property and that such records are subject to the provisions of the Uniform Information Practices Act (Chapter 92F, HRS). All School records shall be physically or electronically available, upon request, at the School's physical facilities. Except as permitted under this Contract and applicable law, no ESP agreement shall restrict access to the School's records by the Commission, the DOE, the Office of the Auditor, or other authorized party in compliance with Section 14.3 of the Charter Contract.
10. The ESP agreement shall require that the ESP furnish the School with all information deemed necessary by the School or the Commission for the proper completion of the budget, quarterly reports, or financial audits required under the Charter Contract.
11. The ESP agreement shall provide that all financial reports provided or prepared by the ESP shall be presented in the format prescribed by the Commission.
12. The ESP agreement shall provide that all employees or contractors of the ESP who work in close proximity with students of the School shall be subject to criminal background check requirements in accordance with Section 12.7 of the Charter Contract.
13. The ESP agreement shall contain provisions requiring compliance with all requirements, terms, and conditions established by any federal or State funding source.
14. The ESP agreement shall provide that the School retains responsibility for selecting and hiring the auditor for the independent annual audit required by the Charter Contract.
15. If an ESP purchases equipment, materials, and supplies using public funds on behalf of or as the agent of the School, the ESP agreement shall provide that such equipment, materials, and supplies shall be and remain the property of the School.
16. The ESP agreement shall contain a provision that clearly allocates the respective proprietary rights of the School governing board and the ESP to curriculum or educational materials. At a minimum, the ESP agreement shall provide that the School owns all proprietary rights to curriculum or educational materials that (i) are both directly developed and paid for by the School; or (ii) were

developed by the ESP at the direction of the School governing board with School funds dedicated for the specific purpose of developing such curriculum or materials. The ESP agreement may also include a provision that restricts the School's proprietary rights over curriculum or educational materials that are developed by the ESP from School funds or that are not otherwise dedicated for the specific purpose of developing School curriculum or educational materials. The ESP agreement shall recognize that the ESP's educational materials and teaching techniques used by the School are subject to state disclosure laws and the Uniform Information Practices Act.

17. If the School intends to enter into a lease, execute promissory notes or other negotiable instruments, or enter into a lease-purchase agreement or other financing relationships with the ESP, then such agreements shall be separately documented and not be a part of or incorporated into the ESP agreement. Such agreements shall comply with Chapter 37D, HRS, if applicable, and shall be consistent with the School's authority to terminate the ESP agreement and continue operation of the School.
18. The ESP agreement shall provide that Hawaii law governs any legal proceeding arising out of a dispute between the School and the ESP.

## **Exhibit D: Intervention Protocol**

## **EXHIBIT D**

### **INTERVENTION PROTOCOL**

In accordance with Section 302D-17, HRS, this Intervention Protocol is established pursuant to the Commission's authority and responsibility to monitor the performance and legal compliance of charter schools in accordance with the terms of this Charter Contract and consistent with nationally recognized principles and standards for quality authorizing. It enables the Commission to take timely and appropriate action to notify the School about performance and/or compliance concerns and provide the School a reasonable opportunity to remedy such problems.

#### **NOTICE OF CONCERN PROTOCOLS**

1. Upon finding that the School has failed to meet legal or contractual compliance obligations (including any goals, objectives, or outcomes set in the performance frameworks), the Commission may issue a Notice of Concern, pursuant to Section 2.10 Notices of this Charter Contract.
2. Upon receiving a Notice of Concern, the School's Governing Board will be required to provide a written response to the Commission within fourteen calendar days and the response must include at least one of the following:
  - i. a description of the remedy of the compliance breach, if the breach has been completely remedied, including evidence of such remedy;
  - ii. a written notification disputing the determination that a compliance breach has occurred with accompanying evidence in support of that assertion;
  - iii. a Corrective Action Plan designed to remedy the compliance breach that includes timelines and persons responsible for each action within the plan. If the submitted Corrective Action Plan is not mutually agreeable to both the School and the Commission staff, the matter will be brought to the Commission at a General Business Meeting.
3. If the School disputes the Notice of Concern, the Commission will consider the matter at a General Business Meeting and retract, modify, or uphold the Notice of Concern.
4. The Commission shall be updated on the issuance, remedy, and progress towards implementation of Corrective Action Plans in the Executive Director's Report during General Business Meetings.

## **ESCALATION OF NOTICES OF CONCERN**

If the School fails to respond or make progress towards correcting the breach in the time as stated in the Corrective Action Plan, repeatedly fails to comply with applicable law or Contract provision(s), or when the breach presents an immediate concern for student or employee health and safety, the Commission may take any or all of the following actions:

1. Issue a Notice of Deficiency which may include prescriptive, specific action plans and conditions for the School; or
2. Issue a Notification of Warning which initiates revocation proceedings in accordance with Chapter 302D, HRS, and applicable administrative rules.

In accordance with Section 302D-17(c), HRS, this Intervention Protocol shall not apply in any circumstance in which the Commission determines that a problem or deficiency warrants revocation, in which case Chapter 302D, HRS, and the established rules, procedures and protocols for revocation shall apply.

**Exhibit E: Renewal, Non-renewal, and Revocation**

## **EXHIBIT E**

### **RENEWAL AND NON-RENEWAL CRITERIA AND PROCESS**

The School will begin the process for renewal or non-renewal in the fall of the final year of the contract. Soon after academic results are released for the previous school year, typically in September or October, the School will receive a Final Performance Report for each year of the contract. The Final Performance Report shall summarize the School's performance record to date as well as the due process afforded to the School through the administrative rules<sup>1</sup>. Each school will have 30 days from the time of receipt of the Final Performance Report to complete the renewal application and respond to the Final Performance Report.

#### **PROCESS FOR SCHOOLS THAT DID NOT RECEIVE A NOTICE OF DEFICIENCY DURING THE CONTRACT PERIOD**

If the School did not receive a Notice of Deficiency during the contract period will submit a renewal application for a five-year contract after receiving the Final Performance Report. The School may also request a hearing pursuant to Sections 8-505-12(b)(2) or 8-505-16(3), HAR.

#### **PROCESS FOR SCHOOLS THAT RECEIVED A NOTICE OF DEFICIENCY DURING THE CONTRACT PERIOD**

If the School received a Notice of Deficiency at any time during the contract period, the Commission will conduct a performance review hearing within 45 days of receiving the School's application for renewal. During the performance review hearing, the Commission will determine whether or not the School has earned a renewal of the charter and may apply conditions if applicable.

At the performance review hearing, the Commission may decide not to renew the Charter Contract if it is determined that the school:

- (1) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under Chapter 302D, HRS, or the charter school contract.**

In evaluating this provision, the Commission will place a heavier emphasis on violations of law or contract when the law or contract provision was designed to protect the health or safety of students or protect equal access and equity of educational opportunities.

- (2) Failed to meet or make sufficient progress toward performance expectations set forth in the contract.**

When evaluating this provision for the Academic Framework, the Commission shall find that sufficient progress was not made toward academic performance expectations when there is

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<sup>1</sup> The processes and procedures pertaining to renewal or nonrenewal of a charter contract are found in Sections 8-505-10 through 8-505-13, HAR.

a pattern of failing to meet a majority of targets, there is a pattern of failing to meet targets coupled with a downward trend in performance, or there is a pattern of failure to implement corrective action plans.

When evaluating this provision for the Organizational and Financial Performance Frameworks, the Commission shall find that progress has not been made when standards have not been met and/or there is a pattern of failure to implement corrective action plans in a timely manner.

**(3) Failed to meet generally accepted accounting principles of fiscal management.**

The Commission shall find failure to meet standards when there is a pattern of fiscal mismanagement in addition to failing to take corrective actions to address significant financial risks identified during the contract period.

**(4) Substantially violated any material provision of law from which the charter school is not exempted.**

When evaluating this provision, the Commission will place a heavier emphasis on violations of law that were designed to protect the health and safety of students and access and equity of educational opportunities.

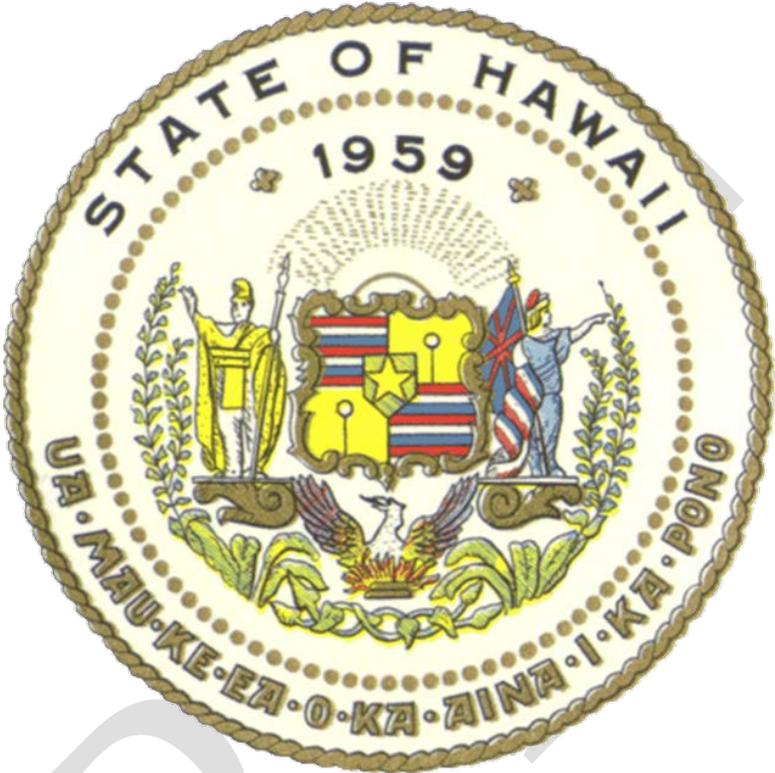
**Organizational Performance Framework**

- Statement of Assurances has been incorporated into the framework. There are now ratings of “meets standard” “does not meet standard” and “falls far below” for each of the indicators measured.

**Exhibit 2**

**Draft Contract 4.0**

# State Public Charter School Commission



Public Charter School Contract  
with

[SCHOOL NAME]

Effective July 01, 2021

## TABLE OF CONTENTS

PARTIES .....	8
RECITALS .....	8
ARTICLE I: PURPOSE, TERM AND CONDITIONS PRECEDENT .....	9
Section 1.1 Purpose .....	9
Section 1.2 Term of Contract .....	9
Section 1.3 Conditions .....	9
ARTICLE II: SCHOOL CHARTER AND MISSION .....	10
Section 2.1 Charter .....	10
Section 2.2 Incorporation of Charter School Information Form .....	10
Section 2.3 Mission Statement .....	10
Section 2.4 Amendment to Charter Contract .....	10
ARTICLE III: DEFINITIONS .....	11
ARTICLE IV: GOVERNANCE OF SCHOOL .....	14
Section 4.1 Governing Board Responsibilities .....	14
Section 4.2 State Code of Ethics and Code of Conduct .....	14
Section 4.3 Governing Board Membership .....	14
Section 4.4 Governing Board Meetings .....	14
Section 4.5 Governing Board Reporting .....	15
Section 4.6 School Governing Board Member Information .....	15
ARTICLE V: SCHOOL PERFORMANCE .....	16
Section 5.1 Performance Frameworks .....	16
Section 5.2 Modification to Performance Frameworks .....	16
Section 5.3 Data and Reports .....	16
Section 5.4 Multiple School Locations and Oversight .....	17
Section 5.5 State Accountability System .....	17
ARTICLE VI: ACADEMIC PERFORMANCE .....	18
Section 6.1 Ages-Grades Served .....	18
Section 6.2 Material Elements of the Educational Program .....	18
Section 6.3 Academic Standards .....	18
Section 6.4 Curriculum .....	18
Section 6.5 Virtual and Blended Programs .....	18

Section 6.6 Students with Disabilities.....	18
Section 6.7 Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008.....	19
Section 6.8 English Learners.....	19
Section 6.9 Academic Performance Framework.....	19
Section 6.10 Academic Performance Indicators.....	20
Section 6.11 Academic Performance Evaluation.....	20
Section 6.12 Academic Review and Renewal.....	21
ARTICLE VII: ORGANIZATIONAL PERFORMANCE.....	22
Section 7.1 Organizational Framework.....	22
Section 7.2 Organizational Performance Evaluation.....	22
Section 7.3 Organizational Performance Review and Renewal.....	22
ARTICLE VIII: FINANCIAL PERFORMANCE.....	23
Section 8.1. Fiscal Responsibilities.....	23
Section 8.2 Financial Oversight.....	23
Section 8.3 Fiscal Year.....	23
Section 8.4 Financial Controls: School Management.....	23
Section 8.5 Financial Controls: Governance.....	23
Section 8.6 No Commingling of Assets.....	24
Section 8.7 Encumbrances.....	24
Section 8.8 Bank Accounts.....	24
Section 8.9 Quarterly Reports.....	24
Section 8.10 Accounting Methods and Records.....	25
Section 8.11 Financial Records and Separate Accounting.....	25
Section 8.12 Location and Access.....	25
Section 8.13 Disbursement Procedures.....	25
Section 8.14 Compliance with Finance Requirements.....	25
Section 8.15 Annual Budgets.....	25
Section 8.16 School Funding.....	26
Section 8.17 Procurement.....	26
Section 8.18 Assets.....	26
Section 8.19 Chart of Accounts.....	26
Section 8.20 Transfer of Funds to Affiliated Nonprofit or Educational Service Provider.....	26
Section 8.21 Financing Agreements and Credit Cards.....	27
Section 8.22 Per-pupil Funding.....	27

Section 8.23 Per-pupil Funding: Enrollment Count Reports for Funding.....	27
Section 8.24 Per-pupil Funding: Funding Subject to Appropriation.....	27
Section 8.25 Per-pupil Funding: Adjustments to Funding.....	28
Section 8.26 Facility Funds.....	28
Section 8.27 Federal Funding .....	28
Section 8.28 Additional Funds .....	28
Section 8.29 Fees.....	28
Section 8.30 Financial Reporting: Budget and Cash Flow.....	29
Section 8.31 Financial Reporting: Annual Audits.....	29
ARTICLE IX: ADMISSION, ENROLLMENT, AND ATTENDANCE .....	30
Section 9.1 Compulsory Education .....	30
Section 9.2 No Tuition or Fees for Admission, Enrollment, or Attendance.....	30
Section 9.3 Applications and Admissions.....	30
Section 9.4 Enrollment .....	30
Section 9.5 Amendment to Enrollment.....	30
Section 9.6 Attendance .....	31
Section 9.7 Attendance: Virtual and/or Blended Learning School/Program .....	31
Section 9.8 Right to Remain .....	31
Section 9.9 Dismissal.....	31
Section 9.10 Withdrawal and Transfer .....	31
ARTICLE X: GENERAL OPERATION OF SCHOOL .....	32
Section 10.1 Student Records .....	32
Section 10.2 Records Retention.....	32
Section 10.3 Open Records Law.....	32
Section 10.4 Student Conduct and Discipline.....	32
Section 10.5 Punishment of Pupils.....	32
Section 10.6 Complaints Process.....	32
Section 10.7 Transportation.....	33
Section 10.8 School Policies .....	33
ARTICLE XI: EDUCATIONAL SERVICE PROVIDER.....	34
Section 11.1 Contracting with an Educational Service Provider .....	34
Section 11.2 Educational Service Provider Requirements.....	34
ARTICLE XII: HEALTH AND SAFETY .....	37
Section 12.1 Safe Environment.....	37
Section 12.2 Food Services .....	37

Section 12.3 Health Clearances .....	37
Section 12.4 Student Health .....	37
Section 12.5 Reporting of Crime-related Incidents .....	37
Section 12.6 Use of Tobacco Prohibited .....	38
ARTICLE XIII: STUDENT RECORDS AND DATA .....	39
Section 13.1 Educational Data .....	39
Section 13.2 Reporting of Data and School Information .....	39
Section 13.3 Commission’s Annual Report to the BOE and Legislature .....	39
Section 13.4 Permitted Disclosures and Users by Operators .....	39
ARTICLE XIV: SCHOOL FACILITIES .....	40
Section 14.1 Location .....	40
Section 14.2 Occupancy Rights .....	40
Section 14.3 Compliance with Codes .....	40
Section 14.4 Emergency Relocation .....	40
Section 14.5 Non-Emergency Relocation or Expansion of Facilities .....	40
ARTICLE XV: CHARTER SCHOOL PERSONNEL AND EMPLOYMENT .....	42
Section 15.1 Relationship .....	42
Section 15.2 Criminal History Checks .....	42
Section 15.3 Collective Bargaining .....	42
Section 15.4 Nondiscrimination .....	42
Section 15.5 Teacher Credentials .....	42
Section 15.6 Personnel Data .....	43
Section 15.7 Evaluations .....	43
Section 15.8 Non-Instructional Employees .....	43
Section 15.9 Personnel Policies .....	43
ARTICLE XVI: INSURANCE AND LEGAL LIABILITIES .....	44
Section 16.1 Insurance .....	44
ARTICLE XVII: COMMISSION OVERSIGHT AND RESPONSIBILITIES .....	45
Section 17.1 Oversight and Enforcement .....	45
Section 17.2 Monitoring Related to Federal Programs .....	45
Section 17.3 Access to Records .....	45
Section 17.4 Right to Review .....	45
Section 17.5 Inquiries and Investigations .....	46
Section 17.6 Site Visits .....	46
Section 17.7 Notice of Concern .....	46

Section 17.8 Notice of Concern Protocols.....	46
Section 17.9 Notice of Deficiency and Notice of Warning.....	47
Section 17.10 Other Legal Obligations .....	47
ARTICLE XVIII: RENEWAL, BREACH OF CONTRACT, TERMINATION, AND DISSOLUTION .....	48
Section 18.1 Charter Contract Renewal .....	48
Section 18.2 Non-Renewal of a Charter Contract.....	48
Section 18.3 Revocation .....	49
Section 18.4 Breach by the School.....	49
Section 18.5 Termination by the Commission.....	49
Section 18.6 Other Remedies.....	50
Section 18.7 School-Initiated Closure .....	50
Section 18.8 Invalid Provision .....	50
Section 18.9 Financial Insolvency.....	50
Section 18.10 Termination for Withdrawal of Authority.....	51
Section 18.11 Termination for Non-Allocation of Funds.....	51
Section 18.12 Termination for Conflict of Interest.....	51
Section 18.13 Dissolution .....	51
Section 18.14 Disposition of Remaining Assets.....	51
ARTICLE XXIV: GENERAL TERMS .....	52
Section 19.1 Entire Contract.....	52
Section 19.2 Amendments.....	52
Section 19.3 Governing Law.....	52
Section 19.4 Compliance with Laws.....	52
Section 19.5 Conflict Between Contract, Law, and Administration Rules .....	52
Section 19.6 Legal Status of School.....	53
Section 19.7 Board of Education Authority.....	53
Section 19.8 Non-Assignability.....	53
Section 19.9 Severability .....	53
Section 19.10 Waiver .....	53
Section 19.11 No Third-Party Beneficiary.....	53
ARTICLE XX: NOTICE.....	54
Section 20.1 School Emergency Closure.....	54
Section 20.2 Mandatory Notification.....	54
Section 20.3 Notices.....	54

ARTICLE XXI: AGREEMENT .....56  
EXHIBIT A: SCHOOL INFORMATION FORM .....57  
EXHIBIT B: ACADEMIC PERFORMANCE FRAMEWORK .....60  
EXHIBIT B: FINANCIAL PERFORMANCE FRAMEWORK .....66  
EXHIBIT B: ORGANIZATIONAL PERFORMANCE FRAMEWORK .....74

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## PARTIES

This **CHARTER SCHOOL CONTRACT** (the “**Charter Contract**”) is effective as of **July 01, 2021** and entered into by and between the **STATE PUBLIC CHARTER SCHOOL COMMISSION** (the “**Commission**”), an agency of the State of Hawai‘i, whose mission is to authorize high quality public charter schools throughout the state, and to ensure the highest standards of accountability and oversight for charter schools, located at 1164 Bishop Street, Suite 1100, Honolulu, Hawai‘i, 96813, and **[SCHOOL NAME]**, (the “**School**”), represented by its Governing Board, whose mailing address **[ADDRESS]**, (singularly the “Party” and collectively the “Parties”).

## RECITALS

WHEREAS, pursuant to Chapter §302D of the Hawai‘i Revised Statutes, (the “HRS”), the Commission has the authority to approve quality charter applications to establish a public charter school, to monitor, oversee, evaluate, and renew, not renew and/or revoke charters consistent with the spirit and intent of this chapter;

**WHEREAS**, on **[DATE]**, the School submitted a Renewal Application following HRS §302D-18 to continue to operate as a public charter school (the “**Application**”);

**WHEREAS**, the Commission has determined (i) that the Application satisfies the requirements found in HRS §302D and any other requirements set by the Commission as allowed by statute; and (ii) approved the Application subject to the execution of this Contract by and between the Commission and the School as represented by their Governing Board;

**WHEREAS**, HRS §302D-12(f) gives broad decision-making authority over school operations to the Governing Board of the School (the “**Governing Board**”), including oversight and responsibility for the financial, organizational, and academic viability of the Charter School, implementation of the Charter Contract, 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;

**WHEREAS**, the Commission and the School seek to foster a cooperative and responsive relationship, to commit to act in the best interests of the students, families, and communities that they serve;

**NOW, THEREFORE**, in consideration of the mutual covenants, representations, warranties, provisions, and agreements contained herein, the parties agree as follows:

## ARTICLE I: PURPOSE, TERM AND CONDITIONS PRECEDENT

### Section 1.1 Purpose

This Contract outlines the roles, powers, responsibilities, and performance expectations for each party to this Charter Contract in the renewal and operation of [SCHOOL], (the “School”). Both parties must comply with all of the terms and provisions of this Charter School Contract (the “Charter Contract”) and all applicable rules, regulations and laws.

### Section 1.2 Term of Contract

This is a 5 (five) year Contract and is effective as of July 01, 2021, and will remain in full force and effect through June 30, 2026, unless sooner revoked or terminated in accordance with HRS §302D-18 and as provided herein.

### Section 1.3 Conditions

The School shall meet all of the Conditions identified in Exhibit “C”: “Conditions” by the dates specified. The Commission may waive or modify the conditions or may grant the School an extension, not to exceed 12 (twelve) months, of the previous contract upon good cause shown.

## ARTICLE II: SCHOOL CHARTER AND MISSION

### Section 2.1 Charter

The School shall establish a public charter school in the State of Hawai'i on the island(s) listed in the table below. Facilities will be located at the address(es) listed in the table below along with the grades served, (see also Exhibit "A"), in accordance with this Charter Contract, the Hawai'i Revised Statutes, and other applicable federal, state and County laws, codes, and ordinances. This Charter Contract shall constitute the School's charter and shall be binding on the School, the Governing Board, and the Commission.

Island	Address	Grade Levels Served
[ISLAND]	[ADDRESS]	[GRADE LEVELS]

### Section 2.2 Incorporation of Charter School Information Form

The Charter School Information Form is specifically included as part of the School's Charter Contract and incorporated into this Contract by language and attached as Exhibit "A" hereto.

### Section 2.3 Mission Statement

The School shall operate in accordance with its mission statement: [insert mission statement]

### Section 2.4 Amendment to Charter Contract

The School shall submit for the Commission's approval a Petition To Amend Charter Contract for **any** proposed changes to the provisions of this Charter Contract, except that a School shall not be required to provide the Commission with a Petition for any proposed changes to its Bylaws. Failure to obtain Commission's approval shall be considered a material breach of this Charter Contract and subject to Non-renewal or Revocation proceedings pursuant to Article XVIII below.

### ARTICLE III: DEFINITIONS

For the purposes of this Contract, and in addition to the terms defined throughout this Charter Contract, each of the following words or expressions, whenever capitalized, shall have the meaning set forth in this section:

**“Applicant Governing Board”** means in addition to the definition set forth in §302D-1 of the Hawai‘i Revised Statutes, the qualified Applicant Governing Board that submitted the Application approved by the Commission and subject to this Contract. For purposes of this Contract, the School, School Governing Board, and Applicant are one and the same and are responsible for compliance with all legal requirements to which the School is subject under Applicable Law and this Contract.

**“Application”** means the application and supporting documentation submitted by the Applicant to the Commission seeking to open and operate a charter school in response to the Commission’s solicitation. The Application is incorporated into, made part of this Contract and attached as **Public Charter School Application**.

**“Applicable Law”** means all local, state, and federal laws, ordinances, rules and regulations applicable to the operation of a charter school in the State of Hawai‘i, as they currently exist or are amended throughout the duration of the Contract. When a provision of this Contract requires the School to comply with all federal, state, and local laws, ordinances, rules, or regulations, or some combination thereof, without specific reference or citation, the language encompasses those laws that are applicable to charter schools. If there is a disagreement about what laws are applicable or the extent to which a given law is applicable, the parties shall engage in good faith discussions in an effort to determine applicability and the associated scope. However, the Commission shall be the ultimate authority regarding what laws apply to the charter schools it has authorized and the extent to which they apply.

**“Asset”** means land, infrastructure, improvements to land, buildings, leasehold improvements, vehicles, furnishings, equipment, collections, and all other tangible and intangible assets that are used in school operations, including “Small and Attractive Assets”.

**“Authorizer”** means an entity established under Chapter 302D of the Hawai‘i Revised Statutes with chartering authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts. The term may include the Commission when appropriate.

**“Board of Education”** means The Hawai‘i Board of Education (BOE) which has authority to promulgate rules for educational policy.

**“Charter Contract”** means in addition to the definition set forth in HRS §302D-1, the Terms and Conditions, and Exhibits.

**“Commission”** means the State Public Charter School Commission established pursuant to HRS §302D-3 as a statewide authorizer. The term Commission includes the Commission’s staff, employees, or other designee.

**“Department”** means The Hawai‘i Department of Education (HIDOE).

**“Educational Service Provider” (ESP)** means a non-profit or for-profit entity that is contracted by the School to provide services that would otherwise be handled by employees of the School, which include, but are not limited to, operational back office functions and services related to the instructional design or operation of the School, in return for fees.

**“Exhibit”** means the following contract documents: Exhibit A: Charter School Information Form; Exhibit B: Performance Frameworks; and Exhibit C: Conditions.

**“Governing Board”** means, in addition to the definition set forth in §302D-1 of the Hawai‘i Revised Statutes, the independent board of the School that must at all times be appointed, operated, and governed in accordance with its Bylaws, the Application, legal obligations, and this Charter Contract. The Governing Board is responsible for the financial, organizational, and academic viability of the School; possesses the independent authority to determine the organization and management of the School, the curriculum, and the instructional methods; has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees and is considered the employer of School employees for purposes of Chapters 76, 78 and 89, HRS; and ensures compliance with all applicable federal, State, and County laws, codes and ordinances. For purposes of this Contract, the School and School Governing Board are one and the same and are responsible for compliance with all legal requirements to which the School is subject under Applicable Law and this Contract.

**“Hawai‘i Administrative Rules (HAR)”** means the currently effective regulations promulgated by the State agencies of Hawai‘i.

**“Hawai‘i Revised Statutes (HRS)”** means the current effective laws of Hawai‘i.

**“Known”** or **“Knowledge”** means that a representative of the School’s Governing Board and/or the School is aware of a fact, circumstance, or result, or has information that would lead a reasonable person in the same situation to believe that the facts,

circumstances, or results exist. When knowledge triggers or impacts a legal responsibility or obligation of the School's Governing Board or School, then failure to act in accordance with those legal responsibilities or obligations may be considered a material and substantial violation of this Contract.

**“Master Calendar”** means the compliance calendar annually issued by the Commission.

**“Performance Framework”** means the assessment tool that sets forth the performance indicators, measures, and metrics used by the Commission to guide their evaluation of the School's academic, organizational, and financial performance under the Charter Contract.

**“Public Charter School”** means a public school and their respective Governing Board authorized by the Commission and holding a current charter contract to operate as a Charter School under HRS §302D, with the flexibility and independent authority with regard to curriculum, facilities management, and personnel management.

**“School Board” or “Charter School Board”** means the “Governing Board”, as used in this Charter Contract and defined in HRS §302D. For purposes of this Charter Contract the School, School Board, Charter School Board, Governing Board, and Applicant are one and the same and are responsible for compliance with all legal requirements to which the Charter School is subject under Applicable Law and this Contract.

**“School Community”** means the school administration, teachers, non-certificated staff, students, parents, other community members, and members of the Governing Board.

**“Site-Relevant Diagnostics”** means a brief assessment that is typically administered three times per year - fall, winter, and spring to determine students' level of knowledge, skills, and understandings. All students on campus participate in the process, including those identified as needing special education or gifted services.

## **ARTICLE IV: GOVERNANCE OF SCHOOL**

### **Section 4.1 Governing Board Responsibilities**

The Governing Board, as defined by HRS §302D is a party to this Contract with the Commission, is responsible for the oversight of the school including but not limited to the operations, the academic outcomes and the financial management. The Governing Board is also responsible for ensuring compliance with all applicable laws and managing any contracts with administrative personnel and/or Educational Service Providers.

### **Section 4.2 State Code of Ethics and Code of Conduct**

Because charter schools are public schools, the Governing Board and School employees shall comply with the State Code of Ethics, codified in HRS §84. The School's Governing Board, employees, contractors, and volunteers must also comply with the Code of Conduct developed and implemented by the Commission, as required in Hawai'i Board of Education (BOE) Policy 201-1.

### **Section 4.3 Governing Board Membership**

1. The Governing Board shall have a consistent process for and maintain records of the selection of Board Members. The selection records shall include the candidate's qualifications to serve, and the Board's decision on the Board Member's application.
2. The Governing Board members should meet the individual standards set in HRS § 302D-12, and, collectively possess the knowledge, experience, and skills to effectively oversee the School's academic, financial, and organizational program.
3. After renewal, when vacancies occur and new members are proposed, the Governing Board shall submit a School Governing Board Member Information Form to the Commission which includes the new Governing Board member candidate, their qualifications, and the current Governing Board's review and comments to the Commission at least 14 business days prior to the date the current Governing Board plans to vote on accepting the candidate's joining the Governing Board.

### **Section 4.4 Governing Board Meetings**

The School's Governing Board is a public body accountable to the authorizer, to the state and federal government, and to the community their School serves and pursuant to HRS §302D-12(h) the Governing Board shall hold meetings open to the public. To enable public attendance and participation in person or through remote technology, Governing Board meetings must be held in a way sufficient to accommodate public participation. If meetings are held in a small venue, the Governing Board will need to provide overflow space where attendees can hear testimony and discussion of the Governing Board members.

#### **Section 4.5 Governing Board Reporting**

1. To ensure the School Community can attend and participate in Governing Board meetings, in accordance with HRS §302D-12(h), the Governing Board shall have the following available in a public area in the School's office, accessible for review during regular business hours, and on the School's website:
  - a. Governing Board meeting notices and agendas as specified in HRS §302D-12(h)(2);
  - b. Written Governing Board meeting minutes as specified in HRS §§ 302D-12(h)(3) and (5); and
  - c. A list of the current names and contact information of the Governing Board's members and officers.
2. The Governing Board will provide the following to the Commission:
  - a. Current Governing Board By-Laws;
  - b. Meeting agendas; and
  - c. Complete minutes.

The Commission may regularly review the School's website to ensure compliance with these provisions and to verify that other information on the website is accurate, and complies with this Charter Contract and applicable laws.

#### **Section 4.6 School Governing Board Member Information**

In order to facilitate regular and emergency communications, the Governing Board shall provide the Commission an updated list of all current member names and contact information which will include the following for each member:

- (a). Name, position held, term dates (mm/dd/yy - mm/dd/yy) with board;
- (b). public facing phone number and email address;
- (c). emergency contact phone number and email, (Commission use only); and
- (d). Resume.

Providing a generic email address or phone number for all members will not satisfy this requirement. This information shall be provided within 14 business days of the start of the school year and kept updated thereafter. When vacancies occur and new members are proposed, the Governing Board shall submit an updated School Governing Board Member Information Form to the Commission which includes the new Governing Board member,

## **ARTICLE V: SCHOOL PERFORMANCE**

### **Section 5.1 Performance Frameworks**

The School's academic, financial, and organizational performance under this Charter Contract shall be evaluated using the Academic, Financial, and Organizational Performance Frameworks, respectively, all are collectively attached as **Exhibit "B"** to this Charter Contract. The specific terms, forms, and requirements of the Performance Frameworks, including any required indicators, measures, metrics, and targets, are maintained and disseminated by the Commission and shall be binding on the School. Material changes to the Performance Frameworks shall require approval by the Commission.

1. The Commission will monitor and annually report on the School's progress as set out in the Performance Frameworks.
2. The evaluation of the School under the Performance Frameworks shall provide guidance for the Commission to renew, revoke, terminate or take other action on the Charter Contract.
3. The Commission reserves the right to amend the Charter School Performance Frameworks set out in Exhibit "B". The School will be required to comply with any amendments of the Charter School Performance Frameworks.
4. If the School does not meet the performance standards in the Performance Frameworks, it may receive a Notice of Concern pursuant to Section 17.7.
5. Failure to meet or make substantial progress toward meeting the performance standards may be sufficient justification to revoke or non-renew the School's Charter.
6. The Commission is not required to allow the school the opportunity to remedy the problem if unsatisfactory review warrants revocation.

### **Section 5.2 Modification to Performance Frameworks**

The Parties acknowledge that specific terms, forms, and requirements of the Performance Frameworks may be modified to the extent required to align with changes to applicable law, State or federal accountability requirements as set forth in law or policies, or circumstances that make assessment based on the existing Performance Frameworks impracticable.

### **Section 5.3 Data and Reports**

The School shall promptly provide to the Commission any information, data, documentation, evidence and reports necessary for the Commission to meet its oversight and reporting obligations as outlined in HRS §302D-17. When the request is for on-site inspection of records, prompt is defined as immediate access. If the request is for reproduction of records, then the Commission will include a timeframe in which the records must be provided; adherence to this timeframe will be considered prompt.

The School shall submit all data, worksheets, reports, and other information required by HIDOE and the Commission in accordance with any deadlines imposed. Failure to provide reports, data, documentation, or evidence by the date due is a material violation of the Charter Contract.

**Section 5.4 Multiple School Locations and Oversight**

Schools operating more than one campus or classroom in other locations from the main site may be required to address identified Performance Frameworks concerns or deficiencies at all of its locations without the Commission conducting an investigation or inquiry at each School site.

**Section 5.5 State Accountability System**

The School shall be subject to the State public school accountability system and comply with all requirements related to the State assessment for all public schools. The School shall also be subject to mandatory reporting requirements from the United States Department of Education. The School shall administer all student testing as required by applicable federal and State law, rule, policies, and procedures.

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## ARTICLE VI: ACADEMIC PERFORMANCE

### **Section 6.1 Ages-Grades Served**

The School shall provide instruction to students in [grades]. In each of the succeeding 5 (five) Academic Years, the School may provide instruction to students in accordance with **Exhibit “A”**.

### **Section 6.2 Material Elements of the Educational Program**

The School shall, at all times, operate in a manner consistent with its Educational Program as defined in **Exhibit “A”**. Revisions to any of the elements in **Exhibit “A”** shall be considered a material change to the Contract and shall require prior written approval by the Commission. This approval shall be informed by an analysis of the School’s performance guided by the Performance Frameworks and this contract.

### **Section 6.3 Academic Standards**

As determined by BOE Policy 102-3, as may be amended, the School shall implement the Common Core or other State academic standards.

The School shall retain the autonomy to select a particular curricular and/or instructional approach consistent with the Common Core or other applicable State academic standards.

### **Section 6.4 Curriculum**

The School shall have exclusive control over its instructional methods, consistent with HRS §302D-12. The School shall submit to the Commission a Petition to Amend Charter Contract for any material changes to the Charter Contract such as the School’s mission and/or vision that may occur as a result of the School’s change in curriculum. This request to amend Charter Contract shall be submitted no later than April 1 prior to the Academic Year in which the modified curriculum will take effect. The School shall provide the Commission with any materials requested by the Commission in connection with the petition for charter revision. A change in textbooks, formative assessments, or other instructional resources shall not be deemed a material change.

### **Section 6.5 Virtual and Blended Programs**

Virtual and blended learning programs authorized by the Commission shall adhere to the Commission’s Online Virtual and Blended Learning Guidelines.

### **Section 6.6 Students with Disabilities**

The Department of Education (the “HIDOE”) is the State of Hawai’i’s “state education agency” (the “SEA”) and “local education agency” (the “LEA”) for purposes of compliance with the individuals with Disabilities Education Act (the “IDEA”). All public schools, including charter schools, are part of and fall under the LEA. As such, the School shall comply with all applicable federal and State laws, rules, procedures, and directives regarding the education of students with disabilities, including but not limited to Chapter 8-60, Hawai’i Administrative Rules (the “HAR”).

The Department is statutorily responsible for the provision of a free and appropriate public education as defined by Section 504 of the Rehabilitation Act of 1973, (34 C.F.R. Part 104.4), (“Section 504”) and IDEA. If the School enrolls special education students or identifies one of its students as eligible for special education, the School shall be responsible for ensuring the educational and related services that are required by a student’s individualized education program (the “IEP”) pursuant to HRS §302D-30.

The programs and services for the student shall be determined collaboratively by the student’s IEP team, which includes the student’s parents and or legal guardian(s).

### **Section 6.7 Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008**

The School shall comply with Section 504 and the Americans with Disabilities Act Amendments Act of 2008, Citation 29 CFR Part 1630; 42 U.S.C. 12101 et seq.; Pub. L. 110-325, (the “ADAAA”) and all related Department rules, policies, and procedures in its general curriculum, including but not limited to the implementation of any Section 504 plan that has been developed for a student. The Department may provide training, consultation, and advice to the School as needed with regard to Section 504 compliance, including legal interpretations, recommendations for intervention strategies, and assistance in conducting Section 504 plan and review meetings.

The School shall provide services and accommodations to students with disabilities in accordance with part B of the Individuals with Disabilities Education Act (20 U.S.C. §1411 *et seq.*), the Americans with Disabilities Act Amendments Act of 2008, Citation 29 CFR Part 1630; 42 U.S.C. 12101 et seq.; Pub. L. 110-325, Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. §794), and any other federal requirements concerning the education of students with disabilities.

### **Section 6.8 English Learners**

The School shall provide services to students who are English Learners in compliance with all applicable federal and State laws, regulations, rules, court orders, policies, procedures, and guidance, to ensure linguistic accessibility to the School’s educational program. Should the Department continue to provide the Commission funding to administer this technical assistance, the Commission shall provide the School such technical assistance. The School shall also assist Immigrant Children and Youth, as defined in Section 3301(6), Title III, Elementary and Secondary Education Act, in meeting the State academic content and student academic achievement standards that all public school students are expected to meet.

### **Section 6.9 Academic Performance Framework**

The Academic Performance Framework adopted by the Commission and attached in **Exhibit “B”** outlines the measures by which a charter school’s academic performance will be evaluated for purposes of annual monitoring, potential interventions and plans for improvement, and renewal and revocation decisions. A school will be evaluated on each performance measure and will receive a rating for each measure as well as a composite score that encompasses the entire academic performance framework (APF).

## Section 6.10 Academic Performance Indicators

The APF, is comprised of five indicators:

1. **Mission Aligned Initiative** - measures mission-focused educational goals through documentation and oral presentation to the Commission
2. **Standardized Assessments**
  - i. **Absolute Achievement** - shows how students have performed at a single point in time (a snapshot) on particular assessments (including but not limited to state standardized assessments)
  - ii. **Student Progress Over Time (Growth)** - examines how individual students have improved over time on a particular assessment (including but not limited to state standardized assessments).
  - iii. **Achievement Gaps** - differences in performance between high-needs and non-high needs students
  - iv. **Post-Secondary Readiness and Success** - Graduation and Promotion rate for all grades
  - v. **Comparative Performance - Complex Area** - measures comparative performance between the charter school and its geographic complex in ELA, math, and science
3. **Student Engagement** - focuses on basic, objective measures of student engagement in school, such as chronic absenteeism and continuous enrollment
4. **School Reported Data on Site-Relevant Diagnostics** - depicts student achievement/growth in Reading and Math at critical points throughout the school year utilizing site-relevant diagnostics.

## Section 6.11 Academic Performance Evaluation

The School shall:

- Provide a comprehensive educational program that aligns with the state academic standards prescribed by the HIDOE for the grades approved to operate.
- Participate in the State-required assessments as designated by the HIDOE or the U.S. Department of Education.
- Biannually report student level data from school administered assessments.
- Annually report the mission aligned narrative.
- Meet or make substantial progress toward achievement of the performance

standards identified in the Academic Performance Framework. If the School fails to meet its academic performance indicators in any year it may receive a Notice of Concern pursuant to Section 17.7.

**Section 6.12 Academic Review and Renewal**

1. The School will be deemed to have met its goals and academic achievement expectations for Charter review and renewal if the School has:
  - a. Earned no less than 73 of the possible total 100 points in at least two of the most recent four years in operation; or
  - b. If the School's performance over the last four years averages out to no less than 73 of the possible total 100 points.
2. Improvement Provision: In cases where a school has not achieved the above threshold, the Commission may, at its discretion, determine that a school has met its goals and student achievement expectations if the School has demonstrated consistent improvement on overall scores over the four-year period.

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## **ARTICLE VII: ORGANIZATIONAL PERFORMANCE**

### **Section 7.1 Organizational Framework**

The Organizational Performance Framework is comprised of six indicators:

1. Education Program
2. Financial Management
3. Governance and Reporting
4. Students and Employees
5. School Environment
6. Additional Obligations

### **Section 7.2 Organizational Performance Evaluation**

The School shall:

1. Comply with applicable laws, rules, regulations, and provisions of the charter contract.
2. Timely complete and submit all necessary document requests from the Commission in its monitoring and oversight.
3. Create and implement policies and procedures following general practices and guidelines to manage school operations.
4. Maintain and make accessible the policies and procedures as listed but not limited to those found in Section 10.8 School Policies.
5. Comply with all material legal, statutory, regulatory, or contractual requirements contained in the charter contract that are not otherwise stated herein.
6. Meet the requirements by other entities to which the school is accountable in addition to the Charter School Commission.
7. Comply with the Commission as they conduct or require oversight activities including, but not limited to, inquiries, records review, investigations and site visits consistent with HRS §302D-17.

### **Section 7.3 Organizational Performance Review and Renewal**

Schools will receive a rating of Meets Standard, Does Not Meet Standard, and Falls Far Below Standard for each of the indicators listed in **Exhibit "B"**.

The School will be deemed to have met its organizational requirements and expectations for Charter review and renewal if the School receives a rating of "Meets Standard" in the indicators listed in the above Section 7.2

Schools that earn a rating of "Falls Far Below" in any category will receive an immediate Notice of Concern requiring a Corrective Action plan to be submitted to the Commission. Three or more successive years of ratings that include a rating in the "Falls Far Below" category may result in a Notice of Deficiency which may lead to a recommendation of immediate revocation of the charter by the Commission.

## **ARTICLE VIII: FINANCIAL PERFORMANCE**

### **Section 8.1. Fiscal Responsibilities**

The School shall comply with all Applicable Law, including but not limited to, state financial and budget rules, regulations, and financial reporting requirements, as well as the requirements contained in the Commission's Charter School Performance Frameworks, (see **Exhibit "B"**). The School shall operate, maintain accurate comprehensive financial records, and practice governmental accounting in accordance with Generally Accepted Accounting Principles ("GAAP") and other generally accepted standards of fiscal management and sound business practices to use public funds in a fiscally responsible manner. The School's accounting methods shall comply in all instances with any applicable governmental accounting requirements and be subject to financial examinations and audits as determined by the Commission or the state auditor, including annual audits for legal and fiscal compliance.

### **Section 8.2 Financial Oversight**

The Commission shall have the authority to conduct or require appropriate inquiries, financial reviews, audits, and investigations pursuant to HRS §302D-17. The School shall provide the Commission full access to its fiscal and accounting books, documents, and files.

### **Section 8.3 Fiscal Year**

The fiscal year for the School shall begin on July 1 and end on June 30 of the subsequent calendar year.

### **Section 8.4 Financial Controls: School Management**

The School's Governing Board shall develop and adhere to a policy for the School's financial management, which shall be readily accessible from the School's website. This policy shall allow the School to maintain appropriate governance and management procedures and financial controls which shall include, but not be limited to:

1. Budgets;
2. Accounting policies and procedures;
3. Payroll procedures;
4. Financial reporting; and
5. Internal control procedures for receipts, disbursements, purchases, payroll, inventory, use of credit cards, debit cards, and fixed assets.

### **Section 8.5 Financial Controls: Governance**

At all times, the School shall maintain appropriate governance and managerial procedures and financial controls which procedures and controls shall include, but not be limited to:

1. Generally Accepted Accounting Principles and the capacity to implement them;
2. Appropriate and adequate practices to maintain and monitor School banking accounts, credit, and/or debit card accounts;

3. Adequate payroll procedures;
4. Procedures for the creation and review of monthly and quarterly financial reports, which procedures shall specifically identify the individual who will be responsible for preparing such financial reports in the following fiscal year;
5. Internal control procedures for cash receipts, cash disbursements, and purchases;
6. Procedures identified in the Application; and
7. Maintenance of asset registers and financial procedures for grants in accordance with applicable state and federal law.

### **Section 8.6 No Commingling of Assets**

Schools shall not commingle assets. Assets, funds, liabilities and financial records of the School shall be kept separate from assets, funds, liabilities, and financial records of any other person, entity, or organization unless approved in writing by the Commission. Additionally, public funds and assets received by the School shall be tracked and accounted for separately.

### **Section 8.7 Encumbrances**

The School may issue secured and unsecured debt, including pledging, assigning or encumbering its assets to manage cash flow, improve operations, or finance the acquisition of real property or equipment. Provided that the School shall not:

1. Pledge, assign or encumber any public funds received or to be received pursuant to HRS §37D;
2. Encumber its assets in a manner that will jeopardize its fiscal viability;
3. Pledge the full faith and credit of the state or any political subdivision or agency of the state in a manner that conflicts with HRS §37D;
4. Encumber other funds that contain a restriction or prohibition on such encumbrance; or
5. Encumber any funds or assets in violation of the law.

### **Section 8.8 Bank Accounts**

The School shall, upon request, provide the Commission with the name of each financial institution with which it holds an account along with the associated account number. At the request of the Commission, the School shall be required to obtain documentation from all the School's bank accounts or to sign a release and authorization that allows the financial institution to provide documents and information directly to the Commission.

### **Section 8.9 Quarterly Reports**

The School shall prepare quarterly financial reports for the Commission in compliance with generally accepted accounting principles. Such reports shall be submitted to the Commission 30 days after the quarter end for the first, second, and third quarters and 30 days after the year end for the fourth quarter. The form of the quarterly reports will be determined by the Commission.

### **Section 8.10 Accounting Methods and Records**

The School agrees to maintain financial records in accordance with generally accepted accounting principles and to make such records available promptly to the Commission upon request. When the request is for on-site inspection of records, prompt is defined as immediate access. If the request is for reproduction of records, then the Commission will include a timeframe in which the records must be provided; adherence to this timeframe will be considered prompt.

### **Section 8.11 Financial Records and Separate Accounting**

The School shall record all financial transactions in general, appropriations, and revenue and expenditures records. In addition, the School shall make appropriate entries from the adopted budgets in the records for the respective funds, and shall maintain separate ledgers accounting for funds by funding source. Accounts must be reconciled on a monthly basis.

### **Section 8.12 Location and Access**

The School shall maintain, or cause to be maintained, books, records, documents, and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the Commission, the Office of the State Auditor, other appropriate state agencies, and federal officials so authorized by law, rule, regulation, or contract. The financial records must be maintained for immediate access by the Commission and reasonable access by the public as required by law.

### **Section 8.13 Disbursement Procedures**

The School shall establish procedures for ensuring that funds are disbursed for approved expenditures consistent with the School's budget.

### **Section 8.14 Compliance with Finance Requirements**

The School shall comply with all other legal requirements imposed on charter school finances, budgeting, accounting and expenditures. The Parties will collaborate to assure that they each remain reasonably current on the impact of any legal modifications on charter schools. The School holds ultimate responsibility for compliance with the legal requirements associated with charter school finances, budgeting, accounting and expenditures.

### **Section 8.15 Annual Budgets**

On or before July 10th of each year, the School will submit to the Commission the School's proposed budget for the upcoming fiscal year (September 01 through August 31st). The School shall adopt a budget approved by the Governing Board for each fiscal year, prior to the beginning of the fiscal year. The budget shall:

1. Be presented in a summary format which is consistent with accepted practice in the field;
2. Describes the major objectives of the educational program and manner in which the budget proposes to fulfill such objectives;

3. Be presented in a summary format that will allow for comparisons of revenues and expenditures among charter schools by pupil;
4. Be presented in a format approved by the Commission;
5. Show the amount budgeted for the current fiscal year;
6. Show the amount forecasted to be expended for the current fiscal year;
7. Show the amount budgeted for the upcoming fiscal year;
8. Specify the proposed expenditures and anticipated revenues arising from the contracting of bonded indebtedness by a capital improvement zone, if applicable;
9. Balanced with expenditures, inter-fund transfers, or reserves not in excess of available revenues and beginning fund balances; and
10. Reconcile beginning fund balance on a budgetary basis. Schools with under 1,000 full-time equivalent students for the preceding fiscal year may make a uniform election to be on the cash basis of revenue and expenditure recognition, except for the Debt Service Funds. All other schools shall be on the modified accrual basis for budgeting, accounting, and financial reporting. The School's reconciliation shall include but need not be limited to the liability for accrued salaries and related benefits. The reconciliation shall be included with the final version of the amended budget and the annual audited financial statements.

#### **Section 8.16 School Funding**

The School will receive funding in accordance with the provisions of HRS §302D-28 and associated rules and procedures.

#### **Section 8.17 Procurement**

Pursuant to HRS §§302D-25(b) and 302D-12(d), the School and its Governing Board shall be exempt from HRS §103D. However, the School's Governing Board shall develop a policy for the procurement of goods, services, and construction consistent with the goals of public accountability and public procurement practices. The Governing Board should also develop procedures to determine the School's adherence to this policy. This policy shall be readily accessible from the School's website.

#### **Section 8.18 Assets**

The School shall maintain a complete and current inventory of all of its property and shall update the inventory annually. The School shall take all necessary precautions to safeguard assets acquired with public funds.

#### **Section 8.19 Chart of Accounts**

The Commission may require the School to follow a uniform chart of accounts; provided that the Commission shall provide a reasonable time period for the School to convert to such a chart of accounts.

#### **Section 8.20 Transfer of Funds to Affiliated Nonprofit or Educational Service Provider**

The School **shall not** transfer public funds to any affiliated nonprofit or educational service provider except for legitimate and reasonable payments from the School to the affiliated nonprofit or educational service provider pursuant to a written legal agreement. The School shall provide the Commission a copy of any newly executed agreement

between the affiliated nonprofit or educational service provider and the School within 14 business days of execution. Under no circumstances shall school funds be used as a line of credit or short term loan to the non-profit.

### **Section 8.21 Financing Agreements and Credit Cards**

The School shall comply with HRS §37D, relating to financing agreements, which requires the approval of the Attorney General. "Financing agreement" means any lease purchase agreement, installment sale agreement, loan agreement, line of credit or other agreement of the department or, with the approval of the director, and any agency, to finance the improvement, use or acquisition of real or personal property that is or will be owned or operated by one or more agencies of the State, the department or any agency, or to refinance previously executed financing agreements including certificates of participation relating thereto. The School shall not act as a guarantor of any such financing agreement.

Any credit cards issued to the School and used by School staff must be paid in full each month. Use of credit and debit cards issued to the School must be covered by the financial management policy required by Section 8.4 of this Charter Contract. Such policies must require strict spending limits on such cards intended to reduce risk of fraudulent use and require payment of any credit cards in full each month so that no interest is accrued. Upon request the School shall provide the Commission with credit card statements and receipts paid.

### **Section 8.22 Per-pupil Funding**

The School's non-facility general fund per-pupil funding shall be as defined in HRS §302D-28. The Commission shall distribute the School's per-pupil allocation each fiscal year pursuant to HRS §302D-28(f), and shall provide the School with the calculations used to determine the per-pupil amount each year. All funds distributed to the School from the Commission shall be used solely for the School's educational purposes as appropriated by the Legislature, and the School shall have discretion to determine how such funding shall be allocated at the school level to serve those purposes subject to applicable laws and this Contract.

### **Section 8.23 Per-pupil Funding: Enrollment Count Reports for Funding**

The School shall provide the Commission projected enrollment counts as required for funding, budgeting, and reporting purposes by May 15. The Commission shall obtain actual enrollment counts as of October 15 directly from the State Department of Education to determine the School's per-pupil funding.

### **Section 8.24 Per-pupil Funding: Funding Subject to Appropriation**

The general fund per-pupil funding is contingent upon legislative appropriation and allocation of funds. If the Legislature fails to appropriate sufficient monies or if the appropriation is reduced by the Governor or by any other means and the effect of such non-appropriation or reduction is to provide insufficient monies for the continuation of the School, this Charter Contract shall terminate on the last day of the fiscal year for which sufficient funds are available or within sixty days of the closure of the School.

### **Section 8.25 Per-pupil Funding: Adjustments to Funding**

1. The Commission's disbursement of per-pupil funds may be adjusted for the following reasons:
  - a. To reconcile projected versus actual enrollment counts;
  - b. To adjust the per-pupil amount due to restriction by the Governor or other reduction action;
  - c. To adjust the actual enrollment count based on an audit of pupil counts and per pupil revenue that impact the funding received by the School;
  - d. To pay for system-wide costs from state or federal agencies that cannot be individually billed to each individual School; or
  - e. To withhold funds due to non-compliance in accordance with HRS §302D-28.
2. The Commission shall have the discretion to determine whether to make an adjustment by:
  - a. Reconciling the adjusted amount in a subsequent disbursement to the School; or
  - b. Either making payment to the School or requiring reimbursement from the School with at least thirty (30) days' written notice by the Commission.

### **Section 8.26 Facility Funds**

In each year in which funds are appropriated for charter school facility purposes, the Commission shall allocate the funds among eligible charter schools, as provided for in HRS §302D-29.5. All funds distributed to the School shall be restricted to the purposes of the appropriation.

### **Section 8.27 Federal Funding**

Pursuant to HRS §302D-28, the School shall be eligible for all federal financial support to the same extent as all other public schools. The School shall comply with all applicable federal and state laws and regulations, including programmatic and fiscal requirements required by specific individual grant programs. The Commission shall distribute federal funds to the School in accordance with applicable federal and state rules and regulations. The Commission shall make the allocation methods publicly available.

### **Section 8.28 Additional Funds**

The School may accept monetary contributions or grants and shall comply with all applicable State or federal laws regarding such monetary contributions or grants. These monetary contributions or grants should be appropriately noted in any applicable financial reporting requirements for the Commission, State, or federal government.

### **Section 8.29 Fees**

To the extent permitted by HRS §302D-28, the School may charge reasonable fees for co-curricular activities. The School may charge reasonable fees to the extent permitted by law or other payment for after school programs, field trips, or co-curricular activities.

**Section 8.30 Financial Reporting: Budget and Cash Flow**

The School shall prepare and provide to the Commission a copy of its annual budget as approved by the School's Governing Board and cash flow projections for each upcoming fiscal year by June 15 or two weeks after the Commission notifies the School of the anticipated amount of State non-facility general fund per-pupil funding to be allocated, whichever is later.

**Section 8.31 Financial Reporting: Annual Audits**

Each fiscal year, the School shall provide for an independent annual financial audit conducted in accordance with Generally Accepted Auditing Standards and Governmental Auditing Standards and performed by a certified public accountant (CPA); pursuant to HRS §302D-32.

The School shall provide the completed audit or financial review to the Commission after the conclusion of the fiscal year, no later than November 1. The Commission, with reasonable notice to the School, may change this deadline depending on circumstances.

In addition to the regular audits and/or reviews the School shall provide for, the Commission may conduct its own financial reviews or audits. In such instances, upon request by the Commission, the School must provide full access to its fiscal and accounting books, documents, and files.

## **ARTICLE IX: ADMISSION, ENROLLMENT, AND ATTENDANCE**

### **Section 9.1 Compulsory Education**

The School shall follow the age and compulsory attendance requirements set in HRS § 302A-1132.

### **Section 9.2 No Tuition or Fees for Admission, Enrollment, or Attendance**

Pursuant to HRS §302D-28, the School may not assess tuition, contributions, or fees of any kind as a condition of admission, enrollment, or attendance. The School may charge reasonable fees to the extent permitted by law or other payment for after school programs, field trips, or co-curricular activities.

### **Section 9.3 Applications and Admissions**

The School shall comply with its admission policies and procedures as approved by the Commission. If the number of applicants exceeds the School's capacity of a program, class, grade level, or building, the School shall select students to enroll using a public lottery that shall be publicly noticed; provided that if the School is a conversion charter school serving as the home school for the HIDOE district, then the School shall follow HRS § 302D-34(c). The School shall submit a description of its current lottery process to the Commission and shall provide notice to the Commission if there is a material change made to the current lottery process. The School shall provide the Commission with a written notice of any material change to the lottery process at least thirty (30) days prior to the date of the proposed implementation for comment. The admission policies and procedures, including the lottery procedure, shall be readily accessible from the School's website.

### **Section 9.4 Enrollment**

Enrollment in the School shall be open to all students of ages and grades as set forth in Section 9.1 above who are residents of the State of Hawai'i. Pursuant to Section 302D-34, HRS, the School shall make all student recruitment, admissions, enrollment, and retention decisions in a nondiscriminatory manner and without regard to race, color, ethnicity, national origin, religion, gender, sexual orientation, income level, disability, level of proficiency in the English and Hawaiian languages, the two official languages of the state pursuant to HRS §1-13, need for special education services, or academic or athletic ability. The School shall not impose enrollment preferences, except as allowed for in HRS §302D-34. Any enrollment preferences adopted by the School shall be included in the admissions policy and procedure. The School shall admit students at any time during the school year until the School has met its grade-level enrollment targets or school-wide enrollment limits approved by the Commission and set forth in **Exhibit "A"**.

### **Section 9.5 Amendment to Enrollment**

The School shall submit to the Commission a Petition to Amend Charter Contract to approve an increase in the maximum enrollment of the School no later than one (1) year before the requested change date with evidence that the School Property has sufficient

capacity to accommodate the increased enrollment, and the quality of the educational program at the School is satisfactory and will not deteriorate as a result of such increase; and such other items as the Commission may request. The School shall maintain accurate and complete enrollment data.

### **Section 9.6 Attendance**

The School shall maintain and adhere to its attendance policy. The policy shall be readily accessible from the School's website, as described in Section 10.8 of the Charter Contract. The School shall maintain daily records of student attendance and absences.

### **Section 9.7 Attendance: Virtual and/or Blended Learning School/Program**

If the School is a virtual or blended learning school/program, the School's attendance policy shall include:

1. School procedures to account for student attendance online; and
2. The requirements for on-site attendance for each course and grade level.

The School shall maintain daily records of virtual and/or blended student attendance and absences.

### **Section 9.8 Right to Remain**

The School shall comply with the 42 US Code §§11431-11435. Students who fail to attend the School as required by HRS §302A-1132 may be removed from the School's rolls only after the requisite unexcused absences have been documented and all truancy procedures followed, consistent with HRS §§ 302A and 571-11, the provisions of the McKinney-Vento act, and Commission policy.

### **Section 9.9 Dismissal**

The School shall not dismiss or transfer a student involuntarily, unless the dismissal or transfer is accomplished through procedures established by the School that are in compliance with HRS §§ 302A-1134 and 302A-1134.6, and due process requirements, provided that any dismissal of a student with a disability shall comply with the requirements of Chapter 8-60, HAR.

### **Section 9.10 Withdrawal and Transfer**

The School shall adopt and adhere to withdrawal and transfer procedures which provide for the timely release of any student who withdraws from the School and/or transfers to another school. The School's withdrawal and transfer procedures shall also provide for the transfer of the student's records to the new school in a reasonable timeframe.

## **ARTICLE X: GENERAL OPERATION OF SCHOOL**

### **Section 10.1 Student Records**

The School shall maintain student records for current and former students in accordance with the requirements of State and federal law, including the Family Education Rights and Privacy Act, 20 U.S.C. §1232g (FERPA), as may be amended from time to time.

### **Section 10.2 Records Retention**

The School shall comply with all applicable federal and State requirements pertaining to the retention of all School records. As a State entity, the School shall comply with the policies and guidelines of the Department of Accounting and General Services, Archives Division, and Records Management Branch, with regard to the retention and disposal of government records.

### **Section 10.3 Open Records Law**

The School shall comply with HRS §92F, the Uniform Information Practices Act.

### **Section 10.4 Student Conduct and Discipline**

The School shall adopt, update, and adhere to written policies concerning standards of student conduct and discipline which shall comply with all applicable federal and State laws. The School shall provide this policy to parent(s)/legal guardian(s) and students at the start of each school year and shall make this policy readily accessible from the School's website, as described in Section 10.8 of this Charter Contract.

### **Section 10.5 Punishment of Pupils**

Pursuant to HRS §302A-1141, no physical punishment of any kind may be inflicted upon any pupil.

### **Section 10.6 Complaints Process**

The School shall adopt and adhere to a process for resolving public complaints which shall include an opportunity for complainants to be heard by the School's Governing Board. For matters concerning the operations and administration of the School, the decision by the School's Governing Board shall be considered final, except where the complaint pertains to a possible violation of any law or breach of this Charter Contract. In the case of a possible violation of law or breach of the Charter Contract, the Commission or other appropriate state agency may investigate the validity of the complaint to determine whether additional actions are needed. The complaints process shall be readily accessible from the School's website, as described in Section 10.8, of this Charter Contract.

### **Section 10.7 Transportation**

The School may provide its own transportation services, provide transportation through an agreement or contract with a private provider, or access any other school transportation provided to it by law. Pursuant to HRS § 286-181, any transportation services provided by the School shall follow the safety rules and standards relating to school vehicles, equipment, and drivers adopted by the Hawai'i State Department of Transportation.

### **Section 10.8 School Policies**

The School shall make the current versions of the following policies and procedures readily accessible from its website:

1. Admissions policies and procedures, including the lottery procedure, as described in Section 9.3 of this Charter Contract;
2. Student conduct and discipline policy, as described in Section 10.4 of this Charter Contract;
3. Complaints procedures, as described in Section 10.6 of this Charter Contract;
4. Attendance policies and procedures, as described in Sections 9.6 and 9.7 of this Charter Contract;
5. Procurement policy, as described in Section 8.17 of this Charter Contract;
6. Safety plan, as described in Section 12.1 of this Charter Contract;
7. Financial management policies and procedures, as described in Section 8.4 of this Charter Contract; and
8. Personnel policies, as described in Section 15.9 of this Charter Contract.
9. Policies and procedures for reporting crime related incidents and suspected child abuse or neglect pursuant to Section 12.5 of the Charter Contract
10. Policies and procedures related to the prohibited use of tobacco and tobacco products pursuant to section 12.6.

## **ARTICLE XI: EDUCATIONAL SERVICE PROVIDER**

### **Section 11.1 Contracting with an Educational Service Provider**

The School shall not enter into a contract or subcontract for comprehensive management or administration services which include, but are not limited to, operational back office functions and services related to the instructional design and operation of the School, in return for fees, unless otherwise agreed to in writing by the Commission or identified in **Exhibit "A"** and reviewed and approved as to form by the School's Deputy Attorney General.

### **Section 11.2 Educational Service Provider Requirements**

The Commission has an obligation to ensure that the School's governing board retains its statutory responsibilities and that the School-service provider relationship will not inhibit the Commission from fulfilling its oversight responsibilities. The following requirements ensure that both the School's governing board and the Commission retain authority to fulfill their legal rights and responsibilities under the Charter Contract and applicable law.

1. The Educational Service Provider, (the "ESP"), agreement shall be subject to, and shall incorporate by reference, the terms and conditions of the Charter Contract.
2. The term of the ESP agreement shall not exceed the term of the Charter Contract.
3. No provision of the ESP agreement shall interfere with the duty of the governing board to exercise its statutory, contractual, and fiduciary responsibilities governing the operation of the School. No provision of the ESP agreement shall prohibit the School's governing board from acting as an independent, self-governing public body, or allow decisions to be made other than in compliance with Chapter 302D, HRS.
4. The ESP agreement shall require the ESP to defend, indemnify, and hold harmless the State of Hawai'i, the Commission and the School, and their officers, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys' fees, and all claims, suits and demands therefore, arising out of or resulting from the acts or omissions of the ESP or the ESP's employees, officers, agents, or subcontractors under the ESP agreement. The ESP agreement shall not require the School to defend, indemnify or hold harmless the ESP. The ESP agreement shall contain insurance and indemnification provisions outlining the coverage the ESP will obtain.
5. The ESP agreement shall describe the specific services for which the ESP is responsible and shall clearly delineate the respective roles and responsibilities of the ESP and the School in the management and operation of the School, including development, approval, and oversight of the School's budget; development, approval, and oversight of the School's curriculum; and oversight of the ESP's services.

6. The ESP agreement shall expressly provide that the School retains, at all times, ultimate responsibility for the School's budget and curriculum.
7. The ESP agreement shall include procedures by which the ESP will be accountable to the School including expressly addressing how the School will evaluate and hold the ESP accountable in relation to the Performance Frameworks (**Exhibit "B"**).
8. The ESP agreement shall be terminable by the School in accordance with its established termination procedures.
  - a. Upon default by the ESP, including without limitation any act or omission of the ESP that causes a default under the Charter Contract or that causes the School to be in material violation of applicable law; or
  - b. For other good cause as agreed by the School and the ESP.
9. The ESP agreement shall provide that the financial, educational, and student records pertaining to the School are School property and that such records are subject to the provisions of the Uniform Information Practices Act (Chapter 92F, HRS). All School records shall be physically or electronically available, upon request, at the School's physical facilities. Except as permitted under this Contract and applicable law, no ESP agreement shall restrict access to the School's records by the Commission, the HIDOE, the Office of the State Auditor, or other authorized party in compliance with Section 17.3 of the Charter Contract.
10. The ESP agreement shall require that the ESP furnish the School with all information deemed necessary by the School or the Commission for the proper completion of the budget, quarterly reports, or financial audits required under the Charter Contract.
11. The ESP agreement shall provide that all financial reports provided or prepared by the ESP shall be presented in the format prescribed by the Commission.
12. The ESP agreement shall provide that all employees or contractors of the ESP who work in close proximity with students of the School shall be subject to criminal background check requirements in accordance with Section 15.2 of the Charter Contract.
13. The ESP agreement shall contain provisions requiring compliance with all requirements, terms, and conditions established by any federal or State funding source.
14. The ESP agreement shall provide that the School retains responsibility for selecting and hiring the auditor for the independent annual audit required by the Charter Contract.
15. If an ESP purchases equipment, materials, and supplies using public funds on behalf of or as the agent of the School, the ESP agreement shall provide that such equipment, materials, and supplies shall be and remain the property of the School.
16. The ESP agreement shall contain a provision that clearly allocates the respective proprietary rights of the School governing board and the ESP to curriculum or educational materials. At a minimum, the ESP agreement shall provide that the School owns all proprietary rights to curriculum or educational materials that (i)

are both directly developed and paid for by the School; or (ii) were developed by the ESP at the direction of the School governing board with School funds dedicated for the specific purpose of developing such curriculum or materials. The ESP agreement may also include a provision that restricts the School's proprietary rights over curriculum or educational materials that are developed by the ESP from School funds or that are not otherwise dedicated for the specific purpose of developing School curriculum or educational materials. The ESP agreement shall recognize that the ESP's educational materials and teaching techniques used by the School are subject to state disclosure laws and the Uniform Information Practices Act.

17. If the School intends to enter into a lease, execute promissory notes or other negotiable instruments, or enter into a lease-purchase agreement or other financing relationships with the ESP, then such agreements shall be separately documented and not be a part of or incorporated into the ESP agreement. Such agreements shall comply with Chapter 37D, HRS, if applicable, and shall be consistent with the School's authority to terminate the ESP agreement and continue operation of the School.
18. The ESP agreement shall provide that Hawai'i law governs any legal proceeding arising out of a dispute between the School and the ESP.

## **ARTICLE XII: HEALTH AND SAFETY**

### **Section 12.1 Safe Environment**

The School shall maintain a safe learning environment at all times. The School shall develop and adhere to a safety plan, which shall be readily accessible from the School's website, as described in Section 10.8 of this Charter Contract.

### **Section 12.2 Food Services**

If a School offers any type of food service on campus, the School shall comply with all applicable federal, State and county laws, rules, and regulations related to Food Services including the handling, preparing, and serving of food.

### **Section 12.3 Health Clearances**

The School shall comply with HRS §§ 302A-1154 to 302A-1163, and HAR Chapter 11-157, requiring documentation that each student has received immunizations against communicable diseases, is free from tuberculosis in a communicable form, and has received a physical examination. Pursuant to HRS § 302A-1161, if a child does not complete the immunizations or physical examination required within the period provided by HRS §302A-1155, after provisional entry into school, the School shall notify the parent or guardian of the child that if the required immunizations or physical examination is not completed within thirty days of the date of the notice, the child shall not be admitted to the School.

### **Section 12.4 Student Health**

The School shall provide appropriate first aid care for ill and injured students. The School may recommend that parents seek the help of medical professionals or appropriate health agencies for cases beyond its scope of responsibility. The school will comply with applicable laws, rules, regulations, and the Commission's guidance document related to safety and the provision of health related services, including but not limited to appropriate nursing services and the dispensing and storage of medications.

### **Section 12.5 Reporting of Crime-related Incidents**

The School shall adopt policies and procedures to:

1. Require a report to appropriate authorities from a teacher, official, or other employee of the School who knows or has reason to believe that an act has been committed or will be committed, which:
  - a. Occurred or will occur on School property during School hours or during activities supervised by the School; and
  - b. Involves crimes relating to arson, assault, burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana

concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;

- c. Involves suspected child abuse or neglect pursuant to HRS §350-1.1
2. Establish procedures for reporting any incident; and
3. Impose appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of School officials.

### **Section 12.6 Use of Tobacco Prohibited**

Pursuant to HRS §302A-102, and HAR §8-19-6, the School shall prohibit the use of tobacco and tobacco products at its school or at School functions.

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## **ARTICLE XIII: STUDENT RECORDS AND DATA**

### **Section 13.1 Educational Data**

Pursuant to HRS §302D-23, the School shall comply with the minimum educational data reporting standards established by the BOE and with additional data reporting required by the Commission in its oversight of this Charter Contract and shall ensure all data is accurate and complete.

### **Section 13.2 Reporting of Data and School Information**

The School shall provide to the Commission, in the format and timeframe prescribed by the Commission, any data necessary and reasonably required by the Commission to meet its oversight and reporting obligations. The Commission shall provide by June 1 the list of anticipated reports and due dates and provide this information to the School.

### **Section 13.3 Commission's Annual Report to the BOE and Legislature**

Pursuant to HRS §302D-17, the Commission shall publish and provide an annual report on the School's performance in accordance with the performance frameworks.

### **Section 13.4 Permitted Disclosures and Users by Operators**

Pursuant to HRS §302A-500, the School shall be responsible for notifying operators, as defined in HRS §499, with access to student data and information of the operators' statutory responsibilities and restrictions.

## ARTICLE XIV: SCHOOL FACILITIES

### Section 14.1 Location

The School facilities are located at the address(es) indicated in **Exhibit “A”** and as described in Section 2.1 above.

### Section 14.2 Occupancy Rights

The School shall possess the lawful right to occupy and use the premises on which the School operates. The School shall provide the Commission a copy of the School's lease, deed, or other occupancy agreement for all locations identified in **Exhibit “A”**.

### Section 14.3 Compliance with Codes

The School shall be located in facilities that comply with all applicable State and county building, zoning, fire, health, and safety code requirements.

If the School is located in facilities other than State or HIDOE facilities, the School shall obtain and maintain any necessary certificates or permits required for use and occupancy of the School's facilities from the applicable building, zoning, fire, health, and safety authorities. The School shall immediately notify the Commission in the event that any such certificate or permit is jeopardized, suspended, or revoked.

The School shall comply at all times with the occupancy capacity limits set by zoning, building, fire, and other applicable regulations.

### Section 14.4 Emergency Relocation

In the event of natural disasters, emergencies, and/or damage to a School's facilities, the School may provide educational services at a temporary location not identified in **Exhibit “A”**, provided the School notify the Commission of the location prior to the start of services at the temporary location and submit monthly updates on location status using the Commission's Facility Update Form.

### Section 14.5 Non-Emergency Relocation or Expansion of Facilities

The School's relocation from the original facility or the request for additional facilities for non-emergency reasons shall constitute a material change to the Contract and shall require prior written approval by the Commission pursuant to Section 2.4 of this Charter Contract.

1. Consideration by the Commission for the School's facility relocation or an additional campus at a different location will require the School to meet the following conditions:
  - a. Any previously authorized campuses must have opened;
  - b. The School programs earn at least a 73%, or its equivalent, on the Academic Performance Framework (APF) for the most recent year of reporting;

- c. There have been no material violations of the law and neither the School nor any existing campus is under a charter Notice of Concern described in Section 17.7;
  - d. The School shall provide educational services, including the delivery of instruction, primarily at locations identified in **Exhibit "A"**.
2. The School shall submit to the Commission for its approval of the proposed relocation or additional campus no later than April 1 prior to the Academic Year in which the relocated or additional campus will open.
  - a. The Commission shall approve or deny the proposed location within 90 days of the School's submitted proposal.
  - b. For new charter schools, the Commission reserves the right to delay or prohibit the School's opening of an additional campus until the School has satisfied each of the Pre-opening Conditions.
3. Final approval of the relocation or additional campus location shall be contingent upon meeting the following conditions:
  - a. Submission of enrollment projections for the upcoming school year, should the School seek to increase enrollment;
  - b. Submission to the Commission a Certificate of Occupancy for the new facilities prior to the first day of occupancy;
  - c. Submission to the Commission of a lease, deed, or other document showing the School possesses the right to occupy the new premises;
  - d. Submission to the Commission documentation that the new facilities meet applicable health, safety, fire, building, and zoning code requirements; and
  - e. Submission to the Commission documentation that the new facilities are of sufficient size to safely house the maximum anticipated enrollment.

## **ARTICLE XV: CHARTER SCHOOL PERSONNEL AND EMPLOYMENT**

### **Section 15.1 Relationship**

All employees hired by the School shall be employees of the School and, pursuant to HRS §302D-12, shall be subject to HRS Chapter 84 and considered to be an employee of the State of Hawai'i.

### **Section 15.2 Criminal History Checks**

The School shall conduct criminal history checks, administered by the Hawai'i Criminal Justice Data Center in accordance with HRS §846-2.7, to determine whether a prospective employee, vendor, volunteer, or agent is suitable prior to the commencement of such employment, services, or volunteer work. The School shall consider the results of such background checks in its decision to employ or utilize such persons either directly or through a School Management Contract. From time to time, as established by the School's policies, the School shall conduct periodic background checks of each employee and each person who regularly volunteers at the School at a minimum of once every two years. The School may terminate the employment of any employee or deny employment to an applicant if the person has been convicted of a crime, and if the School finds by reason of the nature and circumstances of the crime that the person poses a risk to the health, safety, or well-being of others. All such decisions shall be subject to applicable federal and state laws and regulations.

### **Section 15.3 Collective Bargaining**

All employees of the School shall be subject to collective bargaining under HRS §89, and shall comply with the master agreements as negotiated by the State; provided that the School may enter into supplemental collective bargaining agreements that contain cost and non-cost items to facilitate decentralized decision-making. The School shall provide a copy of any supplemental collective bargaining agreement to the Commission and the HIDOE.

### **Section 15.4 Nondiscrimination**

The School, including any employees or agents of the School, shall not engage in any discrimination that is prohibited by any applicable federal, State, or city and county law, including but not limited to HRS §378-2. The School shall include a nondiscrimination policy in its policy manual that complies with BOE Policy 900-1.

### **Section 15.5 Teacher Credentials**

All teachers employed to teach at the School must be licensed pursuant to State licensing requirements and meet any other applicable requirements established by federal and State law, or applicable collective bargaining agreements as such requirements may be amended. Unlicensed teachers may be employed at the School only in emergency and other limited situations, provided that the School meets the requirements outlined in HRS §302A-804, for reporting and filling the vacancies with licensed staff as soon as possible.

### **Section 15.6 Personnel Data**

The School shall maintain accurate and complete personnel and payroll information and shall provide such information to the Commission, in the format and timeframe prescribed by the Commission, as required for the Legislature, HIDOE or any State agency including but not limited to the Department of Budget & Finance, Employees' Retirement System, and the Hawai'i Employer-Union Health Benefits Trust Fund. The School shall ensure each employee that qualifies for State benefits receives such benefits.

### **Section 15.7 Evaluations**

Pursuant to federal and state law and policy, the School is responsible for implementing principal and teacher evaluation systems. The School shall ensure that the evaluation systems are in compliance with all applicable laws, regulations, and policies, including, but not limited to the HIDOE's state ESSA plan and collective bargaining requirements.

### **Section 15.8 Non-Instructional Employees**

The School shall ensure that the School's non-instructional employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Charter Contract, and that all applicable licensing and operating requirements imposed or required under federal, State, or city and county laws, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied, as well as any applicable collective bargaining agreements.

### **Section 15.9 Personnel Policies**

The Governing Board shall adopt and adhere to personnel policies for all school employees. These policies must be made readily accessible from the School's website and a copy submitted to the Commission.

## **ARTICLE XVI: INSURANCE AND LEGAL LIABILITIES**

### **Section 16.1 Insurance**

The School shall be covered under the Statewide Risk Management Program pursuant to HRS §41D, for liability, property, crime, and automobile insurance. The School shall comply with all applicable laws, rules, policies, procedures, and directives of the Department of Accounting and General Services' Risk Management Office.

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## **ARTICLE XVII: COMMISSION OVERSIGHT AND RESPONSIBILITIES**

### **Section 17.1 Oversight and Enforcement**

The Commission will manage, supervise, and enforce this Charter Contract. The Commission shall continually monitor the performance and legal compliance of the School under this Contract and hold the School accountable to performance of its obligations as required by federal and state laws and regulations, the Performance Framework, as well as the terms of this Contract. The Commission shall have the authority to conduct oversight activities that enable the Commission to fulfill its responsibilities under Chapter 302D, HRS, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of HRS §302D, and adhere to the terms of this Contract. Enforcement of this Charter Contract may include, but is not limited to, taking corrective action, development of corrective action plans, imposing sanctions, non-renewal, revocation, or termination of this Contract.

### **Section 17.2 Monitoring Related to Federal Programs**

The School shall allow the HIDOE access to and provide any information needed to meet its oversight and reporting obligations as the SEA or LEA. The HIDOE may monitor the School for compliance with programmatic or fiscal requirements, including requiring reports or other documentation, under any applicable law related to federal programs, including but not limited to special education.

### **Section 17.3 Access to Records**

Consistent with the school's obligations under FERPA, the School shall make all School records open to inspection by the Commission, the HIDOE, the Office of the State Auditor, law enforcement officials, contractors, or any other federal or State regulatory agency within five business days after request is made, or sooner if required by law.

### **Section 17.4 Right to Review**

The Commission is a state educational agency with oversight and regulatory authority over the schools that it authorizes as provided by HRS §302D. Upon request, the Commission, or its designee, shall have the right to review all records created, established or maintained by the School in accordance with the provisions of this Contract, Commission policies and regulations, applicable law or federal and state law and regulations. This right shall be in addition to the Commission's right to require the School to submit data and other information to aid in the Commission's oversight and monitoring of the School as provided under this Charter Contract and applicable law. When the request is for on-site inspection of records, the Commission shall be granted immediate access. If the request is for records, then the Commission will include a timeframe in which the records must be provided; the School must adhere to this timeframe.

This information, regardless of the form in which it is disclosed, will be used by the Commission, and its authorized representatives, to satisfy its obligations to audit, evaluate, and conduct compliance and enforcement activities relative to the School.

### **Section 17.5 Inquiries and Investigations**

The Commission may conduct or require oversight activities including, but not limited to, inquiries and investigations consistent with HRS §302D, regulations, and the terms of this Contract. The Commission may gather information or evidence from any individual or entity with information or evidence that may be relevant to the inquiry or investigation.

### **Section 17.6 Site Visits**

The Commission may visit the School at any time and may, at its discretion, conduct site visits and monitoring. When appropriate, the Commission shall make reasonable efforts to provide notice of visits. Such site visits may include any activities reasonably related to fulfillment of the Commission's oversight responsibilities including, but not limited to, inspection of the facilities; audit of financial books and records; inspection of records maintained by the School; interviews and observations of the principal, staff, school families, staff of an affiliated nonprofit or educational service provider and community members; and observation of classroom instruction.

### **Section 17.7 Notice of Concern**

The Commission may issue a Notice of Concern to notify the School of perceived problems about unsatisfactory performance or failure to meet legal or contractual compliance obligations (including any goals, objectives, or outcomes set in the performance frameworks). The School will be given reasonable opportunity to respond and remedy the problem, unless immediate revocation is warranted.

Failure to issue a Notice of Concern shall not be (i) construed as a waiver or relinquishment of any requirement under applicable laws, rules, policies, procedures, contractual terms and conditions, or performance expectations; or (ii) deemed a necessary precedent to non-renewal or revocation.

### **Section 17.8 Notice of Concern Protocols**

Upon receiving a Notice of Concern, the School's Governing Board will be required to provide a written response to the Commission within fourteen calendar days and the response must include at least one of the following:

1. a description of the remedy of the compliance breach, if the breach has been completely remedied, including evidence of such remedy;
2. a written notification disputing the determination that a compliance breach has occurred with accompanying evidence in support of that assertion;
3. a Corrective Action Plan, using the form provided by the Commission, designed to remedy the compliance breach that includes timelines and persons responsible for each action within the plan. If the submitted

Corrective Action Plan is not mutually agreeable to both the School and the Commission staff, the matter will be brought to the Commission at a General Business Meeting.

4. If the School disputes the Notice of Concern, the Commission will consider the matter at a General Business Meeting and retract, modify, or uphold the Notice of Concern.
5. The Commission may be updated on the issuance, remedy, and progress towards implementation of Corrective Action Plans in the Executive Director's Report during General Business Meetings.

### **Section 17.9 Notice of Deficiency and Notice of Warning**

If the School fails to respond or make progress towards correcting the breach in the time allowed by the Corrective Action Plan, repeatedly fails to comply with applicable law or Contract provision(s), or when the breach presents an immediate concern for student or employee health and safety, the Commission may take any or all of the following actions:

1. Issue a Notice of Deficiency which may include prescriptive, specific action plans and conditions for the School; or
2. Issue a Notification of Warning which initiates revocation proceedings in accordance with HRS §302D, and applicable administrative rules.

In accordance with HRS §302D-17(c), this Intervention Protocol shall not apply in any circumstance in which the Commission determines that a problem or deficiency warrants revocation, in which case HRS §302D, and the established rules, procedures and protocols for revocation shall apply.

### **Section 17.10 Other Legal Obligations**

Nothing in this Charter Contract will be construed to alter or interfere with the Commission's performance of any obligations imposed under federal or state law.

## **ARTICLE XVIII: RENEWAL, BREACH OF CONTRACT, TERMINATION, AND DISSOLUTION**

### **Section 18.1 Charter Contract Renewal**

Pursuant to HRS §302D-18 a Charter Contract may be renewed for a successive five-year terms of duration. Schools seeking to renew their Charter Contract will submit an Application for Contract Renewal in the final year of their contract. The Final Performance Report shall summarize the School's performance record to date as well as the due process afforded to the School through Sections 8-505-10 through 8-505-13, HAR. Each school will have 30 days from the time of receipt of the Final Performance Report to respond to the Performance Report, and to complete and submit the contract renewal application. The Commission will conduct a performance review within 45 days of receiving the School's application for renewal. During the performance review, the Commission will determine whether or not the School has earned a renewal of the charter contract and may apply conditions if applicable.

### **Section 18.2 Non-Renewal of a Charter Contract**

At the performance review, the Commission may decide not to renew the Charter Contract if it is determined that the school:

- 1. Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under Chapter 302D, HRS, or the charter school contract.**

In evaluating this provision, the Commission will place a heavier emphasis on violations of law or contract when the law or contract provision was designed to protect the health or safety of students or protect equal access and equity of educational opportunities.

- 2. Failed to meet or make sufficient progress toward performance expectations set forth in the contract.**

When evaluating this provision for the Academic Performance Framework, the Commission shall find that sufficient progress was not made toward academic performance expectations when there is a pattern of failing to meet expectations coupled with a downward trend or lack of progress in performance, or there is a pattern of failure to implement corrective action plans in a timely manner. When evaluating this provision for the Organizational and Financial Performance Frameworks, the Commission shall find that progress has not been made when expectations and/or standards have not been met and/or there is a pattern of failure to implement corrective action plans in a timely manner.

- 3. Failed to meet generally accepted accounting principles of fiscal management.**

The Commission shall find failure to meet standards when there is a pattern of fiscal mismanagement in addition to failing to take

corrective actions to address significant financial risks identified during the contract period.

**4. Substantially violated any material provision of law from which the charter school is not exempted.**

When evaluating this provision, the Commission will place a heavier emphasis on violations of law that were designed to protect the health and safety of students and access and equity of educational opportunities.

**Section 18.3 Revocation**

The Commission may revoke a charter contract pursuant to HRS §302D-18, and Chapters 8-5-505-15, HAR.

**Section 18.4 Breach by the School**

Violation of any material provision of this contract may, at the discretion of the Commission, be deemed a breach and be grounds for corrective action up to and including revocation or nonrenewal of this Contract. In making this determination, the Commission will consider the underlying facts and circumstances including, but not limited to, the severity of the violation as well as the frequency of violations and adhere to the applicable procedures contained in HRS §302D-18. Material provisions include, but are not limited to, provisions imposing a requirement to comply with the Commission rules and policies and all applicable laws.

**Section 18.5 Termination by the Commission**

This Contract may be terminated, after written notice to the School, and the Charter revoked by the Commission in accordance with the provisions of HRS §302D-18 and associated rules and policies.

The Commission may terminate the Contract for any of the following reasons:

1. Any of the grounds provided for under HRS §302D-18, as it exists now or may be amended;
2. A material and substantial violation of any of the terms, condition, standards, or procedures set forth in the Contract;
3. Failure to meet generally accepted standards of fiscal management and/or school's lack of financial viability;
4. Failure to provide the Commission with access to information and records;
5. Substantial violation of any provision of Applicable Law;
6. Failure to meet the goals, objectives, Performance Frameworks expectations, applicable federal requirements or other terms identified in the Contract;
7. Bankruptcy, insolvency, or substantial delinquency in payments, by the School;
8. It is discovered that the Applicant submitted inaccurate, incomplete, or misleading information in its Application or in response to a Commission's request for information or documentation.

This Contract may also be terminated if the Commission determines that there are insufficient funds available for the operation of the School. Insufficient funds shall include, but not be limited to, reduction in, or elimination of, state allocation of funds. It shall also include depletion of grants or other funding sources to a degree that the Commission determines the School is no longer financially viable. Such termination will be effective on the date identified in the notice, which will be 30 days, or sooner, if the Commission determines that a shorter period is warranted.

#### **Section 18.6 Other Remedies**

The Commission may impose other appropriate remedies for breach including, but not limited to, imposing sanctions or corrective actions to address apparent deficiencies or noncompliance with legal requirements. These may include a requirement that the School develop and execute a corrective action plan within a specified timeframe. Failure to develop, execute, and/or complete the corrective action plan within the timeframe specified by the Commission will constitute a material and substantial violation of the Contract. This provision shall be implemented in accordance with HRS §302D-5 and §302D-17, the associated rules and guidance issued by the Commission.

#### **Section 18.7 School-Initiated Closure**

Should the School choose to terminate this Charter Contract before the end of the Contract term, it must provide the Commission with notice of the decision immediately after it is made, but no later than ninety days before the closure of the school year. Notice shall be made in writing to the Commission.

#### **Section 18.8 Invalid Provision**

If any provision of this contract or the legal authority for entering into the Contract is invalidated by the decision of any court or competent jurisdiction, the Commission shall determine whether any of the Contract provisions can be given effect in light of the decision and notify the Governing Board of the extent to which the Contract can remain in effect without the invalid provision. If the Commission determines that the decision implicates the legal authority for entering into the Contract, or materially and substantially alters the Contract provision, the Contract shall terminate on the date that the decision becomes final.

If the legal authority for entering into this Contract is invalidated, then this Contract shall immediately terminate when the Court's order becomes final.

#### **Section 18.9 Financial Insolvency**

Pursuant to HRS §302D-28.5, any public charter school that becomes financially insolvent shall be deemed to have surrendered its Charter. For the purpose of this provision, the School shall be determined to be financially insolvent when it is unable to pay its staff when payroll is due. The School shall cooperate with the Commission in ensuring the orderly closure of the School. The School shall comply with the Commission's closure policies and protocol, adopted by the Commission.

### **Section 18.10 Termination for Withdrawal of Authority**

In the event that the Commission's authority to perform any of its duties is limited in any way, such that it cannot perform its duties or obligation under the law and/or this Contract, after the commencement of this Contract and prior to normal completion, the Commission may terminate this Contract, in whole or in part, by seven (7) calendar days (or other appropriate time period) written notice to Governing Board. No penalty shall accrue to the Commission in the event this section shall be exercised.

### **Section 18.11 Termination for Non-Allocation of Funds**

If funds are not allocated to continue this Contract in any future period, or it appears that the legislature may not enact a budget before the end of a fiscal year, the Commission may terminate or suspend this Contract by seven (7) calendar days (or other appropriate time period) written notice to the Governing Board. No penalty shall accrue to the Commission in the event this section shall be exercised.

### **Section 18.12 Termination for Conflict of Interest**

The Commission may terminate this Contract by written notice to the Governing Board if it is determined, after due notice and examination, that any party to this Contract has violated the ethics or conflicts of interest provisions of this Contract, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts.

### **Section 18.13 Dissolution**

Upon termination of this Charter Contract for any reason by the School, the Commission, upon expiration of the Contract, or if the School should cease operations or otherwise dissolve, the Commission may supervise the dissolution of the business and other affairs of the School; provided, however, that in doing so the Commission will not be responsible for and will not assume any liability incurred by the School under this Charter Contract. The Board and School personnel shall cooperate fully with the dissolution of the affairs of the School. The School's obligations for following a termination protocol and dissolving the affairs of the school shall survive the term of this contract.

### **Section 18.14 Disposition of Remaining Assets**

In the event that the School closes, in accordance with Commission policy and Applicable Law, the School shall return to the state any and all remaining public assets, including tangible, intangible, and real property in use by the School but originally owned by the state or assets purchased using at least 25 percent of public funds, provided that any outstanding obligations of the School are fulfilled first pursuant to HRS §302D-19. School owned assets, including tangible, intangible, and real property, remaining after paying the School's debts and obligations and not requiring return or transfer to donors or grantor, or other disposition in accordance with state law, will be disposed of in accordance with state and federal law, including but not limited to HRS §302D-19 as amended. This provision shall survive the term of this contract.

## **ARTICLE XVIV: GENERAL TERMS**

### **Section 19.1 Entire Contract**

The Parties intend this Charter Contract, including all attachments, exhibits, and amendments thereto, contain all the terms and conditions agreed upon by the parties and represent a final and complete expression of their agreement, which shall be considered the Charter Contract. All prior representations, understandings, and discussions are merged herein, and no course of prior dealings, other understandings, oral or otherwise, regarding the subject matter of this Charter Contract shall be deemed to exist, supplement, explain any terms used in this document or to bind any of the Parties hereto. The Parties understand that any amendments to this Charter Contract needs to be in writing and expressly approved by the Commission.

### **Section 19.2 Amendments**

Any amendment to this Contract shall be effective only if approved by a majority vote of the Commission at a public meeting. The School may submit any proposed requested amendment to the Commission in accordance with the Petition to Amend Charter Contract Form provided by the Commission. The School shall not take action related to the requested amendment until the Commission has approved said amendment. A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract. Changes in operation that require the School to obtain an amendment to this Contract include but are not limited to the following changes:

1. To any material term of the School Information Form (**Exhibit "A"**);
2. In school location (relocation of site or adding or terminating sites);
3. In school management arrangement (such as intention to hire or terminate a ESP); and
4. In admissions or enrollment policies or procedures.

### **Section 19.3 Governing Law**

This Charter Contract shall be governed by and construed in accordance with the laws of the State of Hawai'i, including all requirements imposed by applicable policy and regulation, and all applicable federal laws of the United States.

### **Section 19.4 Compliance with Laws**

The School and the Commission shall comply with all applicable federal, State, and city and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time.

### **Section 19.5 Conflict Between Contract, Law, and Administration Rules**

In the event of a conflict between this Charter Contract, State law, and the

administrative rules pertaining to charter schools, the order of precedence shall be State law, followed by administrative rule, followed by the terms and conditions of this Charter Contract.

### **Section 19.6 Legal Status of School**

Pursuant to HRS §§302D-1 and 302D-25, the School is a public school and entity of the State and may not bring suit against any other entity or agency of the State. The School shall be nonsectarian in its operations.

### **Section 19.7 Board of Education Authority**

Pursuant to its duties under Article X, Section 3, of the Hawai'i State Constitution, the BOE has the power to formulate statewide educational policy. The School shall only be subject to BOE policies expressly identified by the BOE as applying to charter schools. Should conflicts between an applicable BOE policy and a provision in this Charter Contract occur, the BOE policy shall control.

### **Section 19.8 Non-Assignability**

The School shall not assign or subcontract any duty, obligation, right, or interest under this Charter Contract without prior written Commission approval. A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract.

### **Section 19.9 Severability**

In the event that any provision of this Charter Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Charter Contract.

### **Section 19.10 Waiver**

The failure of either Party to insist upon the strict performance of or compliance with any term, provision, or condition of this Charter Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the Parties' right to enforce the same in accordance with this Charter Contract.

### **Section 19.11 No Third-Party Beneficiary**

The enforcement of the terms and conditions of this Charter Contract shall be strictly reserved to the Commission and the School. Nothing contained in this Charter Contract shall give or allow any claim or right of action whatsoever by any other person. It is the express intent of the Parties to this Charter Contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only, without enforceable rights against a Party to this Charter Contract.

**ARTICLE XX: NOTICE**

**Section 20.1 School Emergency Closure**

The School shall promptly notify the Commission, the appropriate county civil defense office(s), and the public of any circumstance requiring the closure of the School, including, but not limited to, a natural disaster or destruction of or damage to the School facility.

**Section 20.2 Mandatory Notification**

The School shall notify the Commission within **two calendar days** when it has knowledge of any of the following:

1. Any condition that may cause the School to vary from the terms of this Charter Contract or applicable requirements, federal and/or State law;
2. The arrest of any members of the School Governing Board or School employees for a crime punishable as a felony or any crime related to the misappropriation of funds or theft;
3. A court judgment that any members of the School Governing Board or School employees have been found guilty; pled no-contest, or accepted a deferred acceptance of a no-contest plea;
4. Any complaint, citation, or default filed against the School by a government agency or lessor;
5. Any inaccuracy found in enrollment count or other data provided to the Commission;
6. The School receives a notice or is otherwise informed that the School is a party to a legal suit;
7. Severe damage to a School's facilities that render the facilities unusable and require the School to relocate; or
8. A default on any obligation, which shall include debts for which payments are past due by ninety (90) calendar days or more.

**Section 20.3 Notices**

Unless otherwise specified by law, any notice required or permitted under this Contract shall be in writing and shall be effective upon delivery: (a) personally, (b) electronically via email; or (c) by United States first class mail, postage prepaid addressed as follows:

<b>If to the Commission:</b>  State Public Charter School Commission 1164 Bishop Street, Suite 1100 Honolulu, Hawai'i 96813	<b>If to the School:</b>  Name of School Address Attention: Governing Board Chair email:
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Attention: Executive Director email Telephone: (808)***	Telephone: (808)***
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A notice shall be deemed to have been received three business days after mailing or at the time of actual receipt, whichever is earlier. For notices sent electronically via email, the notice shall be deemed to be received once the Party sending the notice receives confirmation via an email tracking notice.

Parties are responsible for notifying each other in writing of any change of mailing and email addresses. Any change in address shall be immediately given to the other party in writing. Any notice that is undeliverable due to change of address without proper notification to the other party will be deemed received on the date delivery to the last known address was attempted.

If a notice is received on a weekend or on a national or Hawai'i state holiday, it shall be deemed received on the next regularly scheduled business day.

**ARTICLE XXI: AGREEMENT**

**IN WITNESS WHEREOF, the Parties have caused this Charter Contract to be duly executed and entered into as of the effective dates written below.**

**STATE PUBLIC CHARTER SCHOOL  
COMMISSION**

**[SCHOOL NAME]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Governing Board Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
APPROVED AS TO FORM:

\_\_\_\_\_  
APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Deputy Attorney General

**EXHIBIT A: SCHOOL INFORMATION FORM**

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## EXHIBIT A

SCHOOL INFORMATION	
School Name:	[Official School Name]
School Location: Address for all instructional and non-instructional sites	
School Website	
School Telephone Number:	
School Fax Number:	
School Leader Email Address:	
Type of Charter:	Start up/ Conversion
Initial Year of Charter Operations	
School and Office Hours:	School Hours: Office Hours:
Island(s) Served	
Hawaiian Immersion	Yes/No
Authorized Brick and Mortar Program	Yes/No Grades Served:
Authorized Virtual Learning Program	Yes/No Grades Served:
Authorized Blended Learning Program	Yes/No Grades Served:
Educational Service Provider (if applicable)	
Grade Levels that Comprise Each Division:	Elementary: Middle: High:
GOVERNING BOARD INFORMATION	
Name of Governing Board Chair at Contract Execution:	
Governing Board Chair Address:	
Governing Board Chair Phone Number:	
Governing Board Chair Email Address:	
SCHOOL MISSION AND VISION	
Mission:	
Vision:	

SCHOOL ENROLLMENT			
GRADE	BRICK AND MORTAR	VIRTUAL	BLENDED
K			
1			
2			
3			
4			
5			
6			
7			
8			
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**EXHIBIT B: ACADEMIC PERFORMANCE FRAMEWORK**

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## EXHIBIT B

### ACADEMIC PERFORMANCE FRAMEWORK

#### Introduction

Pursuant to HRS 302-D, two of the purposes of a charter school are to improve learning for all students and to ensure that children have the opportunity to reach proficiency on state academic assessments. In addition, the law states that the performance-related provisions within a charter agreement 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 evaluation of each public charter school. For students, families, and communities, the main question that needs to be answered is, "Is this school right for my child?" With increased school autonomy, a bedrock of charter school authorization, comes the expectation of high academic standards, achievement, and mission accomplishment. The Academic Performance Framework, APF, outlines the measures by which a charter school's academic performance will be evaluated for purposes of annual monitoring, potential interventions and plans for improvement, and renewal and revocation decisions. A school will be evaluated on each performance measure and will receive a rating for each measure as well as a composite score that encompasses the entire APF.

**Indicator 1. Mission Aligned Initiative**

**Is this school implementing its model as intended based on its mission statement?**

*“Making the Mission Matter” Margaret Lin*

Measure	Basic 5	Developing 10	Practiced 15	Ingrained 20	Total Points 20 possible
Mission Alignment to Student Success	The school has a mission statement	Mission specific educational goals are identified and reviewed on an annual basis	Rubrics are created and implemented to evaluate mission aligned initiative	Data is disaggregated regularly to assess and support student attainment of the mission initiative	

**MAI Narrative (500 words or less) Annual Submission - 16 possible points**

**Share what you have done as a school to meet your mission.**

How has your school assessed and demonstrated performance toward the mission for this year using the evaluation criteria listed below?

Measure	Not Visible 1	Approaches 2	Practices 3	Ingrained 4	Total Points 16 possible
Alignment to educational program					
How has the mission guided decision-making and priority setting for this year?					
What is the effect on student learning and progress toward mission attainment?					
What steps are you taking to fully realize your mission?					

**Indicator 2. Standardized Assessments - Strive HI**

Sub-category	Description	Grade Level	Does not meet	Meets standard	Exceeds Standard	Total Points
<b>Absolute achievement</b> - percent of students scoring met/exceeded	<b>Points Total</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>24</b>
	As measured on state assessments	3 - 8, 11	Less than 35%	35% - 49.9%	50% or more	
	ELA/HLA	3 - 8, 11				
	Math	3 - 8, 11				
	Science	Gr. 4 and 8 and Biology EOC				
<b>Growth</b>	Median SGP	3-8, 11	Less than 35%	35% - 49.9%	50% or more	
	ELA/HLA					
	Math					
<b>Achievement Gap</b>	Gap between high and non-high need students	3-8, 11	30 or more	26 to 30	25 or less	
	ELA/HLA					
	Math					
<b>Post-Secondary Readiness</b>	Graduation and promotion rate	All grades	84%	85%	More than 85 85%	

**Indicator 3. Comparative Performance - Complex Area**

Measure	Grade Levels	Far Below	Does not meet	Meets standard	Exceeds Standard	Total Points
	<b>Points Total</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>12 possible</b>
		More than 15 percentage points lower	5.1 - 15 percentage points lower	Up to 5 percentage points below or above	Greater than 5 percentage points higher	
ELA/HLA	3-8, 11					
Math	3-8, 11					
Science	Grades 4 and 8 and Biology EOC					

**Indicator 4. Student Engagement**

Measure	Far Below	Does not meet	Meets Standard	Exceeds Standard	Total
	1	2	3	4	<b>8 possible</b>
<b>Chronic Absenteeism</b> - rates represent the percentage of students who were absent (either excused or unexcused) for 15 days or more during the school year. lower percentages are more desirable.	More than 18%	15.1 - 18%	15%	0 - 14.9%	
<b>Continuous Enrollment</b>	Less than 85%	85 - 89.9%	90 - 94.9%	95% +	

**Indicator 5. School Reported Data - Site-Relevant Diagnostic (Biannual submission)**

Choose one of the following:

	Adaptive Diagnostic Tool
	Local-specific Diagnostic Tool
	Universal Screener

Measure	Grade Levels	Fall Date	Mid-Year Date	End of Year Date	Growth 20 possible	
					Less than 3% (0 - 2 points Less than 0 = 0 1% = 1 2% = 2)	3% + or More (3-10 points 1 point per %)
Schoolwide	Reading					
	Math					
<b>Disaggregation of above data</b>						
Lower Elementary K - ____	Reading					
	Math					
Upper Elementary ____ - ____	Reading					
	Math					
Middle School ____ - ____	Reading					
	Math					
High School Gr. 9 - 12	Reading					
	Math					

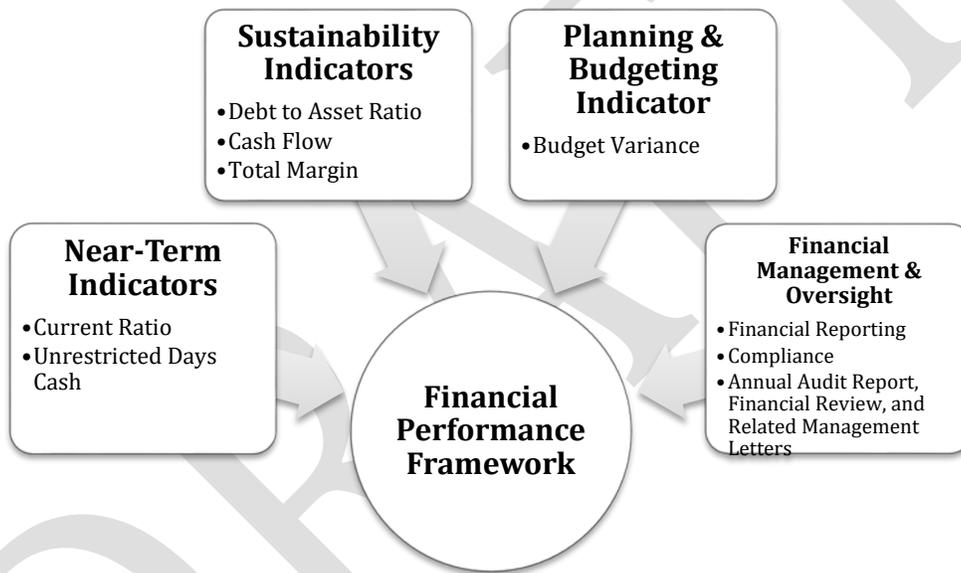
**EXHIBIT B: FINANCIAL PERFORMANCE FRAMEWORK**

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## EXHIBIT B

### FINANCIAL PERFORMANCE FRAMEWORK

The Financial Performance Framework (“Framework”) serves as a tool for the Commission to assess the financial health and viability of charter schools in its portfolio. The framework intends to provide a financial frame of reference based on current and past financial performance of charter schools. The indicators used in the framework are based on industry standard financial measures (e.g. ratios, variances) designed to be viewed in the aggregate with other complementary and supplementary information (e.g. timely and accurate financial and reporting practices, management practices). No single indicator or point in time data point gives a full picture of the financial situation of a school. Taken together, however, the indicators provide a qualitative assessment of the school’s near-term financial health, mid-term capacity, and long-term financial sustainability.



### Risk-Based Approach

The framework adopts a risk assessment model as part of ongoing oversight and monitoring of charter schools’ fiscal activities, and renewal decision-making. The model aligns the framework to the unique funding and governance environment for charter schools in the State of Hawai`i. This risk-based approach will help identify areas of strength and weakness, highlighting controls that are designed to mitigate risks.

School(s) will be closely monitored if there is heightened risk of financial problems. Financial monitoring may include, but not limited to, request for reports or other documentation, inquiries through written or telephone communications, desk audits, or on-site visits, announced or otherwise. Moreover, a school may be requested to develop an appropriate corrective action plan to address any monitoring issues identified during the risk assessment. The corrective action plan provides a school an opportunity to explain the issue(s); identify measurable solution(s); identify

person(s) who will be responsible for each solution; set timelines; and monitor the progress of the corrective action plan.

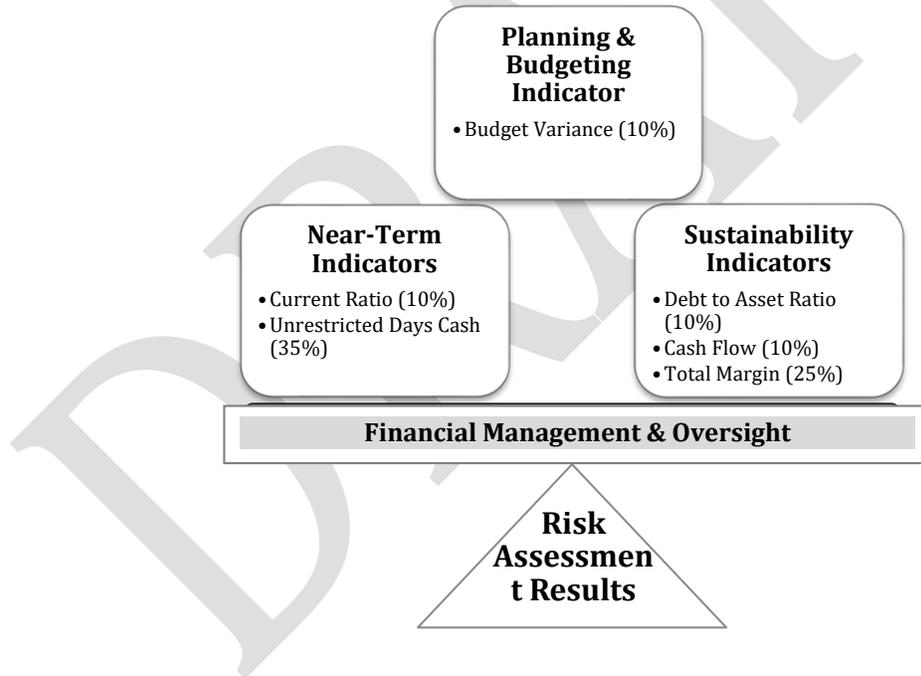
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## Annual Risk Assessment Process

The annual risk assessment evaluates whether the financial viability of a school is at-risk based on the Commission’s review of financial information which will be drawn from the school’s annual audited financial statements or financial review. The inclusion of a “component unit” (an affiliated non-profit entity) may apply when a school’s annual audited financial statements include the presentation of reporting the audited component unit. The Commission’s assessment may also include other financial information and/or a more detailed examination of the school’s financial position and practices, as needed. The Commission may also consider the more current and more detailed information to determine whether the risk assessment result is still applicable throughout the assessment period and the degree to which it is, in fact, an indication of financial risk or distress or mitigation.

The risk assessment will focus on six indicators, or measures based on the National Association of Charter School Authorizers (NACSA) standards. Each indicator will be assessed on a scale from 1 to 5, with 1 being the lowest risk and 5 the highest risk. All six indicators will collectively make up a school’s overall risk level. The annual risk assessment result for a school will be determined using a balanced weighted formula utilizing the individual scores calculated for each indicator as follows:

$$(Current\ Ratio \times 0.10) + (Unrestricted\ Days\ Cash \times 0.35) + (Debt\ to\ Asset\ Ratio \times 0.10) + (Cash\ Flow \times 0.10) + (Total\ Margin \times 0.25) + (Budget\ Variance \times 0.10)$$



The individual and final risk assessment results will be represented as one of five categories based on the school’s risk assessment calculations as color-coded below and will be rounded to the nearest whole number.

Low	Acceptable	Moderate	High	Significant
1	2	3	4	5

## Near Term Indicators

### Current Ratio

$$\text{Current Ratio} = \text{Current Assets} \div \text{Current Liabilities}$$

The current ratio shows the relationship between a school's current assets and current liabilities. Current assets are balance sheet accounts (e.g. cash, receivables) that include the value of all assets that are expected to be converted to cash through normal operations within the current fiscal year. Current liabilities represent obligations (e.g. payables, accrued payroll, accrued vacation) that are payable in cash within a fiscal year. This ratio gives an indication of a school's ability to pay its obligations over the next twelve months. A school may be at-risk if it is unable to meet its current obligations.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Ratio is greater than (>) 1.5	Ratio is between 1.35 – 1.5	Ratio is between 1.2 – 1.35	Ratio is between 1.0 – 1.2	Ratio is less than (<) 1.0

### Unrestricted Days of Cash on Hand

$$\text{Unrestricted Days Cash} = \text{Days Cash} \div [(\text{Total Expenses} - \text{Depreciation Expense}) \div 365]$$

The unrestricted days of cash on hand provides the number of days a school can pay its current expenses without another inflow of cash. Cash balances fluctuate since schools can expend and receive money on an almost daily basis. It indicates whether a school maintains a sufficient cash balance to meet its cash obligations. A school may be at-risk if there is insufficient cash to meet its cash obligations.

The indicator looks at a fixed point in time (the time the financial statement is prepared) and a trend over a period of time. Although this indicator is at a fixed point in time, it tells whether a school may have challenges in meeting its cash obligations. Note that this indicator looks at unrestricted cash, not cash that already has been earmarked for a specific purpose, such as renovations or facilities.

This indicator accounts for **35 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Days Cash is more than 60 days and having an upward or downward trend over three years or more	Days Cash is between 50 – 60 days and having an upward or downward trend over three years or more	Days Cash is between 30 – 50 days and having an upward or downward trend over three years or more	Days Cash is between 20 – 30 days and having an upward or downward trend over three years or more	Days Cash is less than 20 days and having a downward trend over three years or more

## Sustainability Indicators

### Debt to Asset Ratio

$$\text{Debt to Asset Ratio} = \text{Total Liabilities} \div \text{Total Assets}$$

The Debt to Asset Ratio compares a school's financial liabilities against the assets it owns. A lower ratio generally indicates stronger financial health. A higher ratio indicates that the school may be at-risk of not being able to pay back its debts. It is generally accepted indicator of potential long-term financial issues.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Ratio is less than (<) 0.2	Ratio is between 0.2 – 0.4	Ratio is between 0.4 – 0.5	Ratio is between 0.5 – 0.75	Ratio is greater than (>) 0.75

### Cash Flow

$$\text{Cash Flow} = \text{Year-end Cash Balance} - \text{Beginning Year Cash Balance}$$

Cash Flow measures a school's change in cash balance from one period to another. This indicator is similar to days' cash on hand, but it provides insight into a school's long-term stability, as it helps to assess a school's sustainability over a period of time in an uncertain funding environment. A positive cash flow over time generally indicates increasing financial health and sustainability.

This indicator and accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Current Year Cash Flow is positive (+) and having an upward trend over three years or more	Current Year Cash Flow is positive (+) and having an upward or a down trend over three years or more	Current Year Cash Flow is either positive or negative (+/-) and having an upward or a downward trend over three years or more	Current Year Cash Flow is negative (-) and having an upward or a downward trend over three years or more	Current Year Cash Flow is negative (-) and having a downward trend over three years or more

## Total Margin

$$\text{Total Margin} = \text{Net Income} \div \text{Total Revenue}$$

Total Margin measures the surplus or deficit a school yields out of its total revenues. This indicator is important because a school cannot operate at a deficit for a sustained period of time without the risk of closure. The intent of this indicator is not for the schools to be profitable, but is important for charter schools to operate within its available resources in a particular year and to build a reserve to support growth and sustainability.

This indicator is calculated by dividing net income by total revenue and accounts for **25 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Current Year Margin is positive (+) and having an upward trend over three years or more	Current Year Margin is positive (+) and having an upward or a downward trend over three years or more	Current Year Margin is either positive or negative (+/-) and having an upward or a downward trend over three years or more	Current Year Margin is negative (-) and having an upward or a downward trend over three years or more	Current Year Margin is negative (-) and having a downward trend over three years more

## Planning & Budgeting

### Budget Variance

$$\text{Budget Variance} = \text{Actual Total Revenues} \div \text{Projected Total Revenues in the Charter School's Board-Approved Budget}$$

The budget variance depicts actual versus projected incoming revenues for a fiscal year. This indicator is important because revenues drive the development of a school's budget. While the per-pupil funding is the primary revenue source for charter schools, there are other sources (e.g. federal funds, grants, other state funds) that provide the basis for determining costs such as staffing and supplies. A budget based on revenues that are significantly more than its actual revenues may be at-risk of not meeting all of its budgeted expenses. Budgeted revenues that do not exceed actual revenues would not have a significant impact to the risk assessment rating scale.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Variance is greater than (>) 99%	Variance is between 96% – 98%	Variance is between 94% – 95%	Variance is between 91% – 93%	Variance is less than (<) 90%

# Financial Management and Oversight

## Compliance

The Commission ensures that the school complies with applicable laws, rules, regulations and provisions of the charter contract relating to financial reporting requirements, and to financial management and oversight expectations as evidenced by an annual independent audit or review, including but not limited to:

- Complete and on-time submission of financial reports, including annual budget, revised budgets (if applicable), periodic financial reports as required by the authorizer and any reporting requirements if the board contracts with an Education Service Provider (ESP)
- On-time submission and completion of the annual independent audit and corrective action plans, if applicable
- No charging of tuition
- Adequate management and financial controls
- All reporting requirements related to the use of public funds
- An unqualified audit opinion
- An audit devoid of significant findings and conditions, material weaknesses or significant internal control weaknesses
- An audit that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report

If the School does not comply with the requirements of this Financial Performance Framework, the School is subject to the Intervention Protocol, provided in Exhibit D of this Charter Contract.<sup>1</sup>

As provided in the Charter Contract:

14.1 Monitoring. The Commission shall continually monitor the performance and legal compliance of the School. The Commission shall have the authority to conduct or require oversight activities that enable the Commission to fulfill its responsibilities, so long as those responsibilities are consistent with the intent of Chapter 302D, HRS, and adhere to the terms of this Charter Contract.

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<sup>1</sup> in accordance with **§302D-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.

**EXHIBIT B: ORGANIZATIONAL PERFORMANCE FRAMEWORK**

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## EXHIBIT B

### Organizational Performance Framework

A charter school's performance in the organizational measures is a large piece of the overall health of a charter school. Deficiencies or weaknesses in organizational performance may be an indicator of the overall health of the charter school.

For purposes of review and evaluation, a School's organizational components are categorized and listed below. Any school that receives a "Falls Far Below" rating for any organizational component will receive an immediate Notice of Concern requiring a Corrective Action Plan to remedy the deficiency to be submitted to the Commission. Three or more successive years of ratings that include a measure in the "Falls Far Below" category may result in a Notice of Deficiency leading to a recommendation of immediate revocation of the charter by the Commission.

#### 1: Education Program

##### 1(a). Is the school implementing the material elements of the education program as defined in Exhibit "A" of the current charter contract?

- Meets Standard
  - The school implemented the material elements of the education program in all respects and the education program in operation reflects the material elements as defined in the charter contract, or the school has gained approval for a charter modification to the material elements as stated in Exhibit "A".
- Does Not Meet Standard
  - The school failed to implement the material elements of the education program as defined in the charter agreement; however, the school came into compliance once the shortcoming(s) were identified.
- Falls Far Below Standard
  - The school failed to implement the material elements of the education program as defined in the charter agreement in the manner described above.

##### 1(b). Is the school complying with applicable education requirements?

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to education requirements, including but not limited to:
    - Instructional days
    - Graduation and promotion requirements
    - Implementation of mandated programming as a result of state or federal funding
- Does Not Meet Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to education requirements as described above; however, the school came into compliance once the shortcoming(s) were identified.

Falls Far Below Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to education requirements as described above.

**1(c). Is the school protecting the rights of all students including those with disabilities?**

Meets Standard

- Consistent with the school's status and responsibilities, the school materially complies with applicable laws, rules, regulations, and provisions of the charter contract (including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act) relating to the treatment of all students including those with identified disabilities and those suspected of having a disability, including but not limited to:
  - Equitable access and opportunity to enroll
  - Identification and referral
  - Appropriate development and implementation of Individualized Education Plans and Section 504 plans
  - Operational compliance, including provision of services in the least restrictive environment and appropriate inclusion in the school's academic program, assessments, and extracurricular activities
  - Discipline, including disciplinary actions, due process protections, manifestation determinations, and behavioral intervention plans
  - Access to the school's facility and programs in a lawful manner and consistent with students' IEPs or Section 504 Plans
  - Securing of all applicable funding

Does Not Meet Standard

- The school did not materially comply with applicable laws, rules, regulations, and provisions of the charter contract relating to the treatment of students with identified disabilities and those suspected of having a disability in the manner described above; however, the school came into compliance once the shortcoming(s) were identified.

Falls Far Below Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to the treatment of students with identified disabilities and those suspected of having a disability in the manner described above.

**1(d). Is the school protecting the rights of English Language Learner (ELL) students?**

Meets Standard

- The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract (including Title III of the Elementary and Secondary Education Act (ESEA) and the US Department of Education authorities) relating to the English Language Learner requirements, including but not limited to:
  - Required policies related to the service of ELL students
  - Proper steps for identification of students in need of ELL services

- Appropriate and equitable delivery of services to identified students
  - Appropriate accommodations on assessments
  - Exiting of students from ELL services
  - Ongoing monitoring of exited students
- Does Not Meet Standard
    - The school did not materially comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to English Language Learner requirements in the manner described above; however, the school came into compliance once the shortcoming(s) were identified.
  - Falls Far Below Standard
    - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to English Language Learner requirements in the manner described above.

## **2: Financial Management**

### **2(a). Is the school meeting financial reporting and compliance requirements?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to financial reporting requirements, including but not limited to:
    - Complete access to bank accounts and on-time submission of financial reports, including annual budget, revised budget (if applicable), periodic financial reports as required by the authorizer, and any reporting requirements if the board contracts with an Education Service Provider (ESP)
    - On-time submission and completion of annual independent audit and corrective action plans, if applicable
    - All reporting requirements related to the use of public funds
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to financial reporting requirements as described above; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to financial reporting requirements as described above.

### **2(b). Is the school following Generally Accepted Accounting Principles?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to financial management and oversight expectations as evidenced by an annual independent audit, including but not limited to:
    - An unqualified audit opinion

- An audit devoid of significant findings and conditions, material weaknesses, or significant internal control weaknesses
  - An audit that does not include an ongoing concern disclosure in the notes or an explanatory paragraph within the audit report
- Does Not Meet Standard
    - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to financial management and oversight expectations as described above; however, the school came into compliance once the deficiency(ies) were identified.
  - Falls Far Below Standard
    - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to financial management and oversight expectations as described above.

### **3: Governance and Reporting**

#### **3(a). Is the school complying with governance requirements?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to governance by its board, including but not limited to:
    - Board policies, including those related to oversight of an Education Service Provider (ESP), if applicable
    - Board bylaws
    - Holding meetings open to the public
    - The State Code of ethics
    - Conflicts of interest
    - Board composition and/or membership rules (e.g., requisite number of qualified teachers, ban on employees or contractors serving on the board, etc.), and Board recruitment
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to governance by its board as described above; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to governance by its board as described above.

#### **3(b). Is the school holding management accountable?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to oversight of school management, including but not limited to:
    - For Education Service Providers (ESPs): Maintaining authority over management, holding it accountable for performance as agreed under a written performance agreement, and requiring annual financial reports of the ESP

- For Others without ESP: Oversight of management that includes holding it accountable for performance expectations which may or may not be agreed to under a written performance agreement
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to oversight of school management; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to oversight of school management as described above.

### **3(c). Is the school complying with reporting requirements?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to relevant reporting requirements to the school's authorizer, State Education Agency/Local Education Agency (SEA/LEA), and/or federal authorities, including but not limited to:
    - Accountability tracking
    - Attendance and enrollment reporting
    - Compliance and oversight
    - Additional information requested by authorizer
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement relating to relevant reporting requirements as described above; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter agreement as described above.

## **4: Students and Employees**

### **4(a). Is the school protecting the rights of all students?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to the rights of students, including but not limited to:
    - Policies and practices related to admissions, lottery, waiting lists, fair and open recruitment, and enrollment (including rights to enroll or maintain enrollment)
    - The collection and protection of student information (that could be used in discriminatory ways or otherwise contrary to law)
    - Due process protections, privacy, civil rights, and student liberties requirements, including First Amendment protections and the Establishment Clause restrictions prohibiting public schools from engaging in religious instruction
    - Conduct or discipline (discipline hearings and suspension and expulsion policies and practices)
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to the rights of students as described above; however, the school came into compliance once the deficiency(ies) were identified.

- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to the rights of students as described above.

**4(b). Is the school meeting teacher and other staff credentialing requirements?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract (including the federal Highly Qualified Teacher and Paraprofessional requirements within Title II of the Elementary and Secondary Education Act [ESEA]) relating to state certification requirements.
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to state certification requirements; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to state certification requirements.

**4(c). Is the school complying with laws regarding employee rights?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to employment considerations, including those relating to the Family Medical Leave Act, the Americans with Disabilities Act, and employment contracts. The school does not interfere with employees' rights to organize collectively or otherwise violate staff collective bargaining rights.
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to employment considerations; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to employment considerations.

**4(d). Is the school completing required criminal history background checks?**

- Meets Standard
  - The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to background checks of all applicable individuals (including staff and members of the charter community, where applicable).
- Does Not Meet Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to background checks; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to background checks.

## **5: School Environment**

### **5(a). Is the school complying with facilities and transportation requirements?**

#### Meets Standard

- The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to the school facilities, grounds, and transportation, including but not limited to:
  - Americans with Disabilities Act (ADA)
  - Fire inspections and related records
  - Viable certificate of occupancy or other required building use authorization
  - Student transportation

#### Does Not Meet Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to the school facilities, grounds, and transportation as described above; however, the school came into compliance once the deficiency(ies) were identified.

#### Falls Far Below Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to school facilities, grounds, and transportation as described above.

### **5(b). Is the school complying with health and safety requirements?**

#### Meets Standard

- The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to safety and the provision of health-related services, including but not limited to:
  - Appropriate nursing services and the dispensing and storage of medications
  - Food service requirements, if applicable
  - Other district services, if applicable

#### Does Not Meet Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to safety and the provision of health-related services as described above; however, the school came into compliance once the deficiency(ies) were identified.

#### Falls Far Below Standard

- The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to safety and the provision of health-related services as described above.

### **5(c). Is the school handling information appropriately?**

#### Meets Standard

- The school materially complies with applicable laws, rules, regulations, and provisions of the charter contract relating to handling of information, including but not limited to:
  - Maintaining the security of and providing access to student records under the Family Educational Rights and Privacy Act and other applicable authorities

- Accessing documents maintained by the school under the state's Freedom of Information law and other applicable authorities
  - Transferring of student records
  - Proper and secure maintenance of testing materials
- Does Not Meet Standard
    - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to the handling of information as described above; however, the school came into compliance once the deficiency(ies) were identified.
  - Falls Far Below Standard
    - The school failed to comply with applicable laws, rules, regulations, and provisions of the charter contract relating to the handling of information as described above.

## **6: Additional Obligations**

### **6(a). Is the school complying with all other obligations?**

- Meets Standard
  - The school materially complies with all other material legal, statutory, regulatory, or contractual requirements contained in its charter contract that are not otherwise explicitly stated herein, including but not limited to requirements from the following sources:
    - Revisions to state charter law
    - Consent decrees
    - Intervention requirements by the authorizer
    - Requirements by other entities to which the school is accountable (e.g. State Education Agency [SEA])
- Does Not Meet Standard
  - The school failed to comply with other material, legal, statutory, regulatory, or contractual requirements contained in its charter contract that are not otherwise explicitly stated herein as described above; however, the school came into compliance once the deficiency(ies) were identified.
- Falls Far Below Standard
  - The school failed to comply with applicable laws, rules, regulations, and provisions contained in its charter contract that are not otherwise explicitly stated herein as described above.

### **6(b). Does the school have all the policies and procedures required by the charter contract?**

1. Admissions policies and procedures, including the lottery procedure, as described in Section 9.3 of this Charter Contract;
2. Student conduct and discipline policy, as described in Section 10.4 of this Charter Contract;
3. Complaints procedures, as described in Section 10.6 of this Charter Contract;
4. Attendance policies and procedures, as described in Sections 9.6 and 9.7 of this Charter Contract;
5. Procurement policy, as described in Section 8.17 of this Charter Contract;
6. Safety plan, as described in Section 12.1 of this Charter Contract;

7. Financial management policies and procedures, as described in Section 8.4 of this Charter Contract; and
8. Personnel policies, as described in Section 15.9 of this Charter Contract.
9. Policies and procedures for reporting crime related incidents and suspected child abuse or neglect pursuant to Section 12.5 of the Charter Contract
10. Policies and procedures related to the prohibited use of tobacco and tobacco products pursuant to section 12.6.

Meets Standard

- The school has all of the policies required by the Charter Contract.

Does Not Meet Standard

- The school did not have all of the policies required by the Charter Contract, however, the school came into compliance once the missing policies were identified.

Falls Far Below Standard

- The school failed to create and implement one or more of the policies required by the Charter Contract.

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