

DAVID Y. IGE  
GOVERNOR



JOHN KIM  
INTERIM CHAIRPERSON

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

1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

**SUBMITTAL FOR CONSIDERATION AND ACTION**

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DATE OF SUBMITTAL: July 6, 2018

DATE OF MEETING: July 12, 2018

TO: John Kim, Interim Chairperson

FROM: Sione Thompson, Executive Director

AGENDA ITEM: V. Presentation and Action on Intervention Protocol for Kanuikapono Public Charter School's Notices of Concern Regarding:

- A. Statutory Composition Requirements of the Governing Board and School Policies and Procedures
- B. 2016-2017 Annual Financial Audit Findings

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I. DESCRIPTION

Presentation and Action on Intervention Protocol for Kanuikapono Public Charter School (Kanuikapono School) regarding:

- School's dispute of the May 15, 2018 Notice of Concern (NOC);
- Violation of statutory composition requirements for Governing Boards;
- School policies and procedures that violate statute and/or the Public Charter School Contract;
- Concerns related to the legality of the reported governing board's actions; and
- Failure to make progress towards the compliance breach regarding significant findings, material weaknesses, and significant internal control weaknesses, reported in the Annual Financial Audit for FY2016-17.

II. AUTHORITY

Pursuant to Hawaii Revised Statutes ("HRS") §302D-17(a), "An authorizer shall continually monitor the performance and legal compliance of the public charter school it oversees, including collecting

and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter and adhere to the terms of the charter contract.”

As the authorizer of Hawaii public charter schools, the Commission contracts with a charter school’s governing board to provide public education to the students of the state of Hawaii:

- Under Hawaii Revised Statutes §302D-12, state law articulates that no person may serve on the governing board of a charter school if the person is an employee or former employee of any charter school under the jurisdiction of that governing board, a relative of an employee or former employee of any charter school under the jurisdiction of that governing board, or any vendor or contractor providing goods or services to any charter school under the jurisdiction of that governing board, unless:
  - (1) The person is a former employee of a charter school under the jurisdiction of that governing board and at least one year has passed since the conclusion of the former employee's employment with that charter school;
  - (2) The person is a relative of a former employee of a charter school under the jurisdiction of that governing board and at least one year has passed since the conclusion of the former employee's employment with that charter school;
  - (3) The person is a vendor or contractor and at least one year has passed since the conclusion of the vendor or contractor's service to a charter school under the jurisdiction of that governing board; or
  - (4) The person serving on the governing board shall not cause more than one-third of the voting members of the governing board to be made up of:
    - (A) Employees or former employees of any charter school that is under the jurisdiction of that governing board; provided that this subparagraph shall not include persons who are covered under paragraph (1);
    - (B) Relatives of employees or of former employees of any charter school that is under the jurisdiction of that governing board; provided that this subparagraph shall not include persons who are covered under paragraph (2); and
    - (C) Vendors or contractors who are providing goods or services to any charter school that is under the jurisdiction of that governing board; provided that this subparagraph shall not include persons who are covered under paragraph (3).
- Section 7.3 of the Charter Contract states that the school shall comply with its admission policies and procedures as approved by the Commission.
- Section 7.7 of the Charter Contract states that schools 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.

- Under Hawaii Revised Statutes §302D-32, state law articulates that each charter school shall annually complete an independent financial audit that complies with the requirements of its authorizer and the department. The Financial Performance Framework of the Charter Contract requires this audit to be devoid of significant findings and conditions, material weaknesses or significant internal control weaknesses.

### III. BACKGROUND ON ORGANIZATIONAL PERFORMANCE

On April 18, 2018, in an email from Kanuikapono School, (**Exhibit 1**) the school informed the State Public Charter School Commission (Commission) that changes were made to the membership of the Kanuikapono School's Governing Board (Governing Board). Upon review of this purported governing board membership, the board did not appear to be in compliance with 302D-12. Further, per review of recent minutes and of school policies, there were concerns calling into question the legality of the reported governing board and its actions. A Notice of Concern letter was issued to the charter school on May 15, 2018 regarding the school's organizational performance. (**Exhibit 2**)

The school submitted the Response to Notice of Concern Form, dated May 21, 2018, that indicated the school Governing Board disputes the issues of concern. However, the board did not include a description of its dispute, nor evidence supporting its disagreement, as required (**Exhibit 3**). Per the Intervention Protocol (**Exhibit 4**), if a school disputes a Notice of Concern, the Commission will consider the matter at a Commission meeting.

On June 1, 2019, the purported governing board chair emailed a written response to the Notice of Concern (**Exhibit 3**). The response noted that there was "crisis and disruption" with the school's Governing Board, but that the "Interim Governing Board has taken steps towards compliance, strengthening, and restructuring." However, after reviewing the descriptions of the remedies of the compliance breaches, and the reported membership of the Governing Board, and after re-reviewing the policies noted in the May 15 NOC, it appears the compliance issues have not been completely resolved. Per the Intervention Protocol, 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.

### IV. BACKGROUND ON FINANCIAL PERFORMANCE

On November 20, 2017 Kanuikapono School received a Notice of Concern (**Exhibit 5**) from the Commission concerning Findings in their Fiscal Year 2016-2017 Annual Financial Audit. The Audit contained two findings, a Material Weakness identifying a lack of internal controls, and a Significant Deficiency identifying internal control matters relating to payroll.

The Governing Board of the school submitted a Response to the Notice of Concern containing a Corrective Action Plan on December 4, 2017 (**Exhibit 6**) indicating that it had hired appropriate staff to implement corrective actions to resolve the weaknesses and deficiencies by January 31, 2018. This Corrective Action Plan was approved by Commission Staff on December 5, 2017.

On June 8, 2018, the purported governing board chair submitted a Corrective Action Plan Implementation Update (**Exhibit 7**) detailing actions performed by school administration to eliminate deficiencies and weaknesses identified in the Audit and Notice of Concern. However, one implementation explanation in the document contained information indicating that the school had ongoing lines of credit, specifically credit cards, raising the concern that the school may be non-compliant with Section 6.8 of the Charter Contract requiring schools to be in compliance with Chapter 37D, Hawaii Revised Statutes, which requires any financing agreement to be approved by the Attorney General. Interim School Director Kathryn Smith was unable to confirm that the school had received Attorney General approval for credit cards, but stated she would be notifying the purported Governing Board of the school to resolve any compliance issues regarding this concern as soon as possible.

V. PRESENTATION/ANALYSIS

Issue	Requirement	School Response	Analysis
Governing Board composition appears to violate statute	§302D-12, HRS states that not more than one-third of the voting members of the board shall be employees or former employees, unless one year has passed since the conclusion of employment; relatives of employees or former employees, unless one year has passed since the conclusion of employment; or vendors or contractors providing services to the charter school, unless one year has passed since the conclusion of the vendor or contractor's service to a charter school. Employees, relatives, and contractors or vendors, shall not exceed one-third of the governing board's voting membership	The Governing Board identifies only two of its six voting members as related to an employee, or an employee, therefore concluding that the Governing Board meets the ⅓ statutory requirement.	The Governing Board failed to count Nestor Figueroa and Nalani Kaneakua in the ⅓ limit on relatives, employees, and vendors/contractors. As recent members of a non-profit board that provides fee-based services to Kanuikapono School, these individuals would be considered vendors/contractors. As such, more than 66% of the Governing Board's members fall into the limited categories and the Governing Board is not in compliance with §302D-12, HRS.
The non-profit organization, appears to have replaced the the Governing Board	Section 3.1 of the Charter Contract states The School's Governing Board is the independent board of the School that is responsible for the viability of the School, possesses the independent authority to determine the organization and management of the School, the	The Governing Board states, 1) Nestor Figueroa and Nalani Kaneakua, former Kanu INC members, resigned from Kanu INC to serve on the Governing board and none of the Governing Board members are current Kanu INC members.	On April 16, 2018 there appears to have been a "joint emergency meeting" at which the following actions are stated in the minutes ( <b>Exhibit 8</b> ): "Kanu I Ka Pono Learning Center (Kanu INC) to serve as umbrella organization", "Move to dissolve Kanuikapono PCS Governing Board", "Move that the INC Board serve as interim Governing Board". The Governing Board of a charter school is an independent board of the

	<p>curriculum, and the instructional methods</p> <p>Section 2.9 of the Charter Contract states 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</p>	<p>2) There was a misunderstanding and Kanu INC is not the interim board.</p>	<p>school. Kanu INC does not have the authority to make decisions for Kanuikapono Charter School.</p> <ul style="list-style-type: none"> <li>• The April 16, 2018 meeting is not valid nor legal since the 6-day agenda posting requirements were not met</li> <li>• The actions taken at the April 16, 2018 meeting, affecting the Governing Board, are not recognized as valid or legal</li> <li>• The nominations of any members to the Governing Board by the non-profit organization are not recognized as valid or legal</li> <li>• It is unclear which, if any of the purported Governing Board members, are valid Governing Board members, implemented through proper process, and able to carry out the Governing Board's responsibilities</li> </ul>
<p>Governing Board minutes do not include all of the required components</p>	<p>§302D-12(h), HRS states that governing board minutes, along with other requirements, shall at minimum include: the place of the meeting; members of the governing board as either present or absent; the views of the board's members; the substance of all matters proposed, discussed, and decided by the board's members; and a record, by individual member, of any votes taken</p>	<p>Governing Board states it will revise and re-approve the minutes</p>	<p>There is are serious concerns with the school's proposal:</p> <ul style="list-style-type: none"> <li>• Will revised minutes be re-written for accuracy or to cover the issues of the Notice of Concern</li> <li>• It is unclear which, if any, of the purported Governing Board members are valid members with the proper authority to approve or re-write governing board minutes</li> <li>• The last proper governing board was reported to the Commission in September 2017, which minutes will be re-written and how can they be re-written since most of the September 2017 members were not reported as</li> </ul>

			members of the purported Governing Board.
There are no legal records of the discussions, decisions, and the votes taken that validates the resignation of members, or legitimate seating of the new members, represented in the April 18, 2018 email	<ul style="list-style-type: none"> <li>• See §302D-12(h), HRS above</li> <li>• Section 3.3 of the Charter Contract states the Governing Board shall notify the Commission within 14 business days of any membership changes on the Governing Board</li> </ul>	The response reported that the school's accreditation process identified areas of governance that needed to be addressed. Prior to the April 16th meeting the school's governing board had not addressed the issues.	<p>Issues with this response are the same as stated earlier:</p> <ul style="list-style-type: none"> <li>• The April 16, 2018 meeting is not valid nor legal since the 6-day agenda posting requirements were not met</li> <li>• The actions taken at the April 16, 2018 meeting, affecting the Governing Board, are not recognized as valid or legal as a non-profit organization has no authority over a charter school governing board</li> <li>• The nominations of any members to the Governing Board by the non-profit organization's members are not recognized as valid or legal</li> <li>• It is unclear which, if any of the purported Governing Board members are valid members and able to make decisions and take action.</li> </ul>
The Admissions policy posted on the Kanuikapono School's website, as of July 4, 2018, is not the Commission approved policy	7.3 of the Charter Contract states that the school shall comply with its admission policies and procedures as approved by the Commission	The response states the Governing Board and Deputy Attorney General have agreed to work together to revise its bylaws, beginning with its admission and enrollment policies, and submit a new Policy Manual after its July board meeting.	<p>The Admissions policy approved by the Commission must be posted on the school's website, and distributed to families. Any different draft should have already been removed from the school's website, as the school was notified of this compliance breach in the May 15 NOC letter.</p> <p>The school should be following a Commission approved Admissions policy. There are concerns over whether Kanuikapono Charter School implemented the approved policy during its most recent enrollment. If not, the affected students</p>

			must be identified by the school and the approved policy must be properly implemented to correct any improper denial of applicants.
<p>School appears to</p> <ol style="list-style-type: none"> <li>1. be implementing enrollment preferences that have not been approved by the Commission and</li> <li>2. is requesting information on its application form that violates student access and equity rights</li> </ol>	<p>Section 7.4 of the Charter Contract states that, pursuant to §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 not impose enrollment preferences, except as allowed for in Section §302D-34, HRS and any approved preferences adopted by the School shall be included in the admissions policy and procedures</p>	<p>The response states that the application has been revised and reposted. The Governing Board will work with the Deputy Attorney General to revise admissions and enrollment policies.</p>	<p>The application posted on the school's website still appears to violate student access and equity rights. It requires that an applicant provide its gender, a violation of the charter law. Also, unless the applicant is a new student to the public school system, it is unclear why the application requires a copy of the birth certificate from all applicants. This could also be perceived as a way to discriminate against applicants.</p> <p>The response does not address the issue regarding how applications from siblings were processed for SY18-19 enrollment. Around May 4, 2018 parents were notified in a letter from the school that applications from siblings would be included in the school's lottery. This would have been a violation of the school's approved admissions policy. As in the issue above, there are concerns over whether Kanuikapono Charter School implemented the approved policy during its most recent enrollment. If not, the affected students must be identified by the school and the approved policy must be applied to correct any improper denial of applicants.</p>
<p>The school's disenrollment policy included in its Ho'omau Program</p>	<p>Section 7.7 of the Charter Contract states that schools shall not dismiss or transfer a student</p>	<p>The response states the school has amended its policies and the word</p>	<p>The Withdrawal Policy within the Ho'omau Program Handbook and the the 'Ohana Handbook includes sections that are concerning</p>



Handbook and the 'Ohana Handbook, appear to violate statute and the Charter Contract	involuntarily, unless the dismissal or transfer is accomplished through procedures 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	"disenrollment" has been replaced with "withdrawal".	since they could prevent a student from enrolling and attending another school. A school should not withhold education records from the next enrolling school if an official request from the next school has been received. Also, parents should not be prevented from reviewing student records. Concerning sections include: <ul style="list-style-type: none"> <li>• Prior to disenrollment, required forms and approval from the DOE must be obtained</li> <li>• Student files won't be transferred without completed and required paperwork</li> <li>• The school may withhold transcripts and final report cards for dues, fees, hana makua hours and balances.</li> </ul>
A Corrective Action Plan Implementation Update submitted by the school June 8, 2018 indicates previously undisclosed lines of credit	Section 6.8 of the Charter Contract which requires schools to be in compliance with Chapter 37D, Hawaii Revised Statutes, which requires any financing agreement to be approved by the Attorney General	Interim School Director Kathryn Smith was unable to confirm that the school had received Attorney General approval for credit cards, but stated she would contact the purported Governing Board to resolve any compliance issues relating to this matter as soon as possible.	Lines of credit that have not received approval by the Attorney General and Budget & Finance are a violation of Charter Contract and Statute. The Governing Board of the school must ensure that these lines of credit comply with all State and Federal Laws. Commission Staff will continue monitoring compliance in this area of school finance through resolution.

## VI. RECOMMENDATION

Pursuant to HRS §302D-5, the Commission as authorizer is responsible for monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools. Additionally, the statute requires the Commission to be responsible for and ensure the compliance of the public charter schools it authorizes with all applicable state and federal laws. In response to apparent deficiencies in public charter school performance or legal compliance, the authorizer shall take appropriate corrective actions or exercise sanctions.

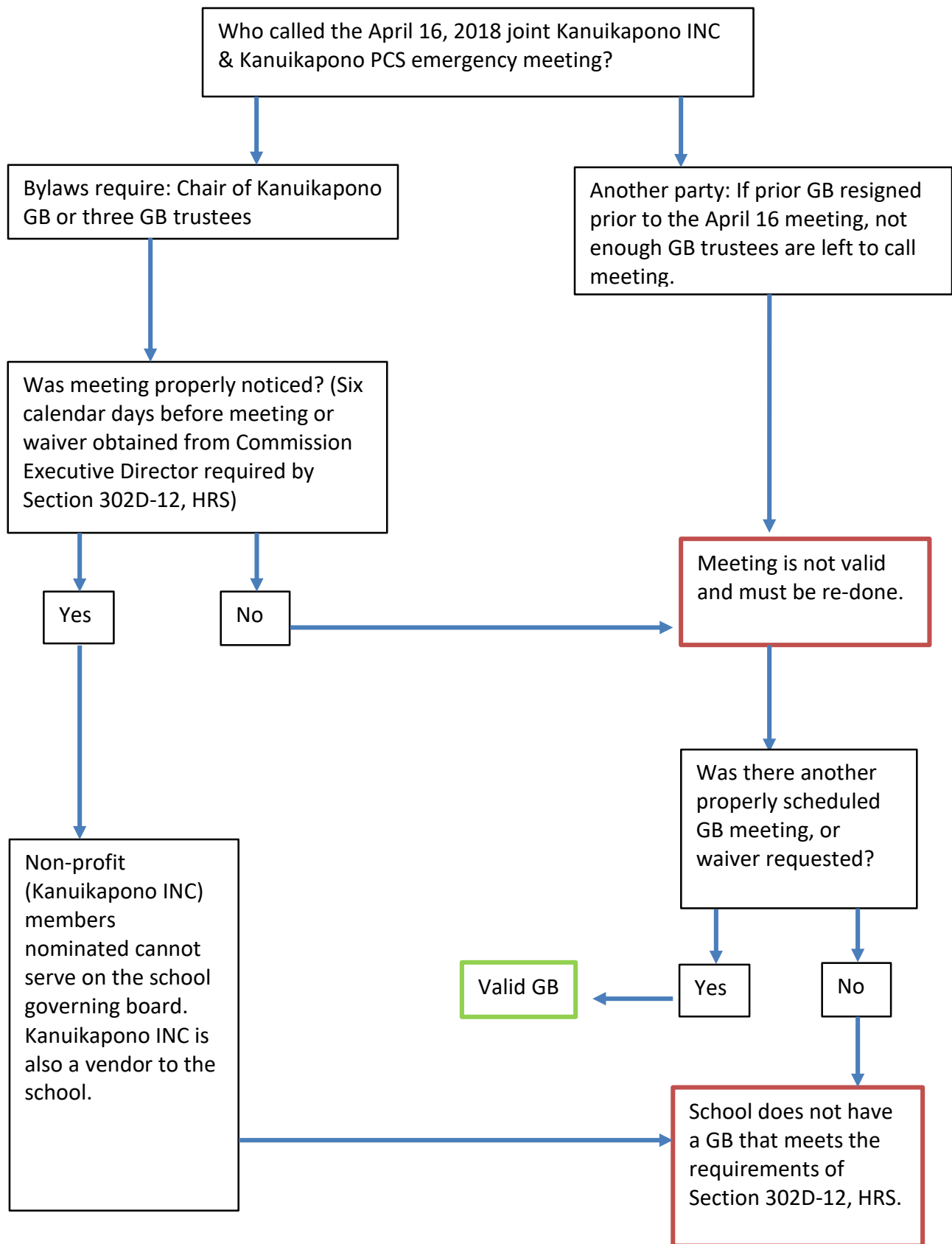
Regarding the NOC for Organizational Performance, per Intervention Protocol within the Charter Contract, if the School disputes the Notice of Concern, the Commission will consider the matter at a General Business Meeting and retract, modify, or uphold the Notice of Concern.

Also, upon receiving a Notice of Concern, the School's Governing Board is required to provide 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.

For the NOC for Financial Performance, 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 1**

**April 18, 2018 email from Kanuikapono School informing the Commission that changes were made to the membership of the school's Governing Board**

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## Kanuikapono Gov Board template

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**Sylvia Silva** <sylvia.silva2@spcsc.hawaii.gov>  
To: Kathryn Smith <kws.kanu@gmail.com>

Thu, Apr 19, 2018 at 7:56 AM

Thank you Kathryn. We'll use this in the meantime but please do continue to work on the template - it helps ensure the Commission's information about the board is current and complete.

Thank you!

sylvia

On Wed, Apr 18, 2018 at 7:13 PM, Kathryn Smith <kws.kanu@gmail.com> wrote:

Aloha Sylvia,

Ipo and I are working on updating the Gov Board template you sent over. In the meantime, we have our most recent info on our website:

<https://sites.google.com/view/kanuikapono/home>

Mahalo,  
Kathryn

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*Kathryn W Smith*  
*Kanuikapono PCS, Dean of Students & Staff*  
*808.820.8061*

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## Kanuikapono Leadership

1 message

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Ipo Torio <ipotorio@gmail.com>

Thu, Apr 12, 2018 at 9:53 AM

To: Sione Thompson <sione.thompson@spcsc.hawaii.gov>

Cc: Katy DeBruinPlencner <katy.debruinplencner@spcsc.hawaii.gov>, PJ Foehr <pj.foehr@spcsc.hawaii.gov>, Christian Doyle <chris.doyle@spcsc.hawaii.gov>, Allan Silva <allan.silva@spcsc.hawaii.gov>, Kaleo Iwasaki <Kaleo.Iwasaki@spcsc.hawaii.gov>, Jennifer Higaki <jennifer.higaki@spcsc.hawaii.gov>, Yvonne Lau <Yvonne.Lau@spcsc.hawaii.gov>, Scott Hall <scott.hall@spcsc.hawaii.gov>, Danny Vasconcellos <Danny.Vasconcellos@spcsc.hawaii.gov>, Sylvia Silva <Sylvia.Silva2@spcsc.hawaii.gov>, Mary Jane Munoz <MaryJane.Munoz@spcsc.hawaii.gov>, Jannelle Watson <Jannelle.Watson@spcsc.hawaii.gov>, Kathryn Smith <kathrynsmith8@gmail.com>

Aloha Sione and commission staff,

It has been brought to my attention that there is confusion about my position at Kanuikapono PCS. To clarify, I am still the Executive Director/Head of School, Changes have been made to the Governing Board, and your office should be receiving an updated Board Directory by the end of the week.

Mahalo nui,  
Ipo Torio.

**Exhibit 2**

**May 15, 2018 Notice of Concern Regarding the School's Organizational Performance**

DAVID Y. IGE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

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

<http://CharterCommission.Hawaii.Gov>  
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Tel: (808) 586-3775 Fax: (808) 586-3776

May 15, 2018

VIA EMAIL: [hokulei808@live.com](mailto:hokulei808@live.com)

Nalani Kaneakua  
Purported Governing Board Interim Chair  
Purported Governing Board Members  
Kanuikapono Public Charter School  
P.O. Box 12  
Anahola, Hawaii 96703

RE: NOC #1718o58 – Statutory composition requirements of the Governing Board and school policies and procedures

Dear Ms. Kaneakua and the Governing Board of Kanuikapono Public Charter School:

This letter serves as a Notice of Concern ("Notice"), as described in the Intervention Protocol, Exhibit D ("Intervention Protocol"), of the State Public Charter School Contract ("Charter Contract").

On April 18, 2018, in an email from Kanuikapono School (**Exhibit 1**) the school informed the State Public Charter School Commission (Commission) that changes were made to the membership of the Kanuikapono School Governing Board (Governing Board). Upon review of this purported governing board membership and its most recent actions, the governing board does not appear to be in compliance with 302D-12. Further, there are concerns calling into question the legality of the reported governing board's actions.

First, §302D-12(a), HRS states that not more than one-third of the voting members of the board shall be employees or former employees, unless one year has passed since the conclusion of employment; relatives of employees or former employees, unless one year has passed since the conclusion of employment; or vendors or contractors providing services to the charter school. Employees, relatives and contractors or vendors shall not exceed one-third of the governing board's voting membership. The changes to the governing board, as reported by the school, appear to violate this statute.



Second, the change to the governing board composition also appears to violate Section 3.1 of the Charter Contract between the Commission and Kanuikapono Public Charter School, whose governing board is the party to the Charter Contract. However, from the purported governing board minutes posted on the school's website (**Exhibit 2**), it appears that members of the associated non-profit, Kanuikapono INC, are now listed as members of the school's governing board.

Third, the changes to the governing board composition appear in direct violation of Hawaii State Ethics Commission Advisory Opinion No. 2015-2 (**Exhibit 3**):

"...some members of public charter school governing boards and some employees of public charter schools may also be employed by private non-profit organizations that were established to support the charter schools. This situation creates concerns under Hawaii Revised Statutes ("HRS") chapter 84, the State Ethics Code. Specifically, the conflicts of interests section of the State Ethics Code prohibits a charter school governing board member or employee in this situation from taking official action on behalf of the charter school affecting the non-profit organization. It also prohibits the individual from assisting the non-profit organization in matters before the charter school, and from acting as a representative for the non-profit organization in its interactions with the charter school. Additionally, as discussed below, a provision of the State Ethics Code may be applicable where a member of a governing board or an employee of a charter school is not currently an employee of a supporting non-profit organization but may be contemplating such employment."

The purported governing board minutes posted on the school's website (**Exhibit 2**), appears to show that members of the associated non-profit, Kanuikapono INC, are now listed as members of the school's governing board. The Commission will consult with the State Ethics Commission on this matter and the alleged violation of Advisory Opinion No. 2015-2.

Fourth, Section 2.9 of the Charter Contract also states that the school shall not assign or subcontract any duty, obligation, right, or interest under this Charter Contract without prior written approval of the Commission. However, from the purported governing board minutes posted on the school's website (**Exhibit 2**), it appears that the associated non-profit, Kanuikapono INC, is acting as the school's "interim governing board". A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract.

Fifth, the purported governing board minutes posted on the school's website do not include all of the required components. 302D-12(h) states that governing board minutes, among other items, shall at minimum include: the place of the meeting; members of the governing board as either present or absent; the views of the board's members; the substance of all matters proposed, discussed, and decided by the board's members; and a record, by individual member, of any votes taken.

Sixth, there is no legal record of the discussion, decision, and the votes taken by individual members of the school's governing board that validates the resignation of members or a legitimate seating of any new members as represented in the April 18, 2018 email to the Commission indicating changes to the school board.

Additionally, the Commission has received complaints about the school's student application, its admission policy, and its dismissal policy. Upon review of these policies and the application, the school appears to have practices that violate statute and/or the Charter Contract.

First, section 7.3 of the Charter Contract states that the school shall comply with its admission policies and procedures as approved by the Commission. The policy posted on the Kanuikapono School's website, as of the date of this Notice, is not the Commission approved policy (**Exhibit 4, approved policy**).

Second, the school appears to 1) be implementing enrollment preferences that have not been approved by the Commission and 2) is requesting information on its application form that violates student access and equity rights (**Exhibit 5**). Section 7.4 of the Charter Contract states that, 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 not impose enrollment preferences, except as allowed for in Section 302D-34, HRS and any approved preferences adopted by the School shall be included in the admissions policy and procedures.

Third, the school's disenrollment policy (**Exhibit 6**), included in its Ho'omau Program Handbook and the 'Ohana Handbook, violates statute and the Charter Contract. Section 7.7 of the Charter Contract states that schools 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.

#### **Response Process:**

As specified by the Intervention Protocol, a school governing board must provide a written response to the Commission within 14 calendar days of the date of a Notice, or **May 29, 2018**. A Response Form is attached. Please indicate the appropriate option from the list below on the attached Form and submit all required documents to [frameworks.compliance@spcsc.hawaii.gov](mailto:frameworks.compliance@spcsc.hawaii.gov) by **4:30 p.m. on May 29, 2018**.

Response form options:

Option 1: If the issue of concern was completely remedied by the response deadline, please submit:

- A completed Response to Notice of Concern Form (check Option 1) that includes:
  - A description of the remedy

Option 2: If the issue of concern was not completely remedied by the response deadline, but the remedy is currently in progress, please submit:

- A completed Response to Notice of Concern Form (check Option 2) that includes:
  - A description of a corrective action plan designed to remedy the issue of concern
  - A timeline and deadline for each action within the plan
  - The person(s) responsible for each action within the plan

Option 3: If the school governing board would like to dispute the issue of concern, please submit:

- A completed Response to Notice of Concern Form (check Option 3) that includes:
  - A description of the dispute with the issue of concern
  - Evidence supporting the school governing board's disagreement with the issue

Further, provide the history and documentation supporting any changes to the membership of the Governing Board made since its last reported roster on September 12, 2017 (**Exhibit 7**). Please see the September roster and provide the following documentation:

- A complete charter school roster using the Commission's template for reporting governing board membership.
- The minutes of the official Governing Board that records the resignation of any of the members reported on the roster.
- The minutes of the official Governing Board that records the seating of any new members added since September 12, 2017. The minutes should include the individual votes of the official Governing Board members.
- The letters, emails, or other communication from any member on the roster, informing the Governing Board of their resignation from the Governing Board, or from their officer position.
- The bylaws in place on September 12, 2017, and if the bylaws have been amended since September 12, 2017, the minutes of the meeting at which the Governing Board took action to amend its bylaws, which includes the individual members' votes.
- The posted admissions policy should be replaced with the approved policy and the school should be following its Commission approved admissions policy.

Last, please be aware that these issues of concern will be escalated to the Commission for consideration at a general business meeting if the school governing board fails to do any of the following:

- Respond to the Notice by the deadline per the instructions listed above.
- Submit a corrective action plan that is mutually agreeable to both the school governing board and Commission staff.
- Make progress toward remedying the issue of concern according to the accepted corrective action plan.

Any questions regarding this Notice may be directed to Sylvia Silva at [sylvia.silva2@spcsc.hawaii.gov](mailto:sylvia.silva2@spcsc.hawaii.gov) or (808) 586-3781. For more details about the Notice of Concern process, please refer to the Intervention Protocol in the Charter Contract.

*Note: The response must include a completed Response to Notice of Concern Form that has been signed by the legal school governing board chair. A scanned copy or photo of the original signed form is preferred; if this is not possible, the Commission will accept an electronically signed copy (i.e., the school governing board chair's name typed in the signature field) **from the legal school governing board chair's email account.***

Purported Governing Board Interim Chair  
Purported Governing Board Members  
Page 5  
May 15, 2018

Thank you very much for your attention to this matter. We look forward to the resolution of this Notice and will notify you via email once it has been satisfactorily resolved.

Best regards,

A handwritten signature in black ink, appearing to read "Sione Thompson". The signature is fluid and cursive, with the first name "Sione" being more prominent than the last name "Thompson".

Sione Thompson  
Executive Director

Attachments: Governing Board Response From, Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7

c: Ipo Torio, School Director, Kanuikapono Public Charter School (via email: ipo.kanu@gmail.com)

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## Kanuikapono Gov Board template

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**Sylvia Silva** <sylvia.silva2@spcsc.hawaii.gov>  
To: Kathryn Smith <kws.kanu@gmail.com>

Thu, Apr 19, 2018 at 7:56 AM

Thank you Kathryn. We'll use this in the meantime but please do continue to work on the template - it helps ensure the Commission's information about the board is current and complete.

Thank you!

sylvia

On Wed, Apr 18, 2018 at 7:13 PM, Kathryn Smith <kws.kanu@gmail.com> wrote:

Aloha Sylvia,

Ipo and I are working on updating the Gov Board template you sent over. In the meantime, we have our most recent info on our website:

<https://sites.google.com/view/kanuikapono/home>

Mahalo,  
Kathryn

--

*Kathryn W Smith*  
*Kanuikapono PCS, Dean of Students & Staff*  
*808.820.8061*

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**Kanuikapono Leadership**

1 message

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**Ipo Torio** <ipotorio@gmail.com>

Thu, Apr 12, 2018 at 9:53 AM

To: Sione Thompson &lt;sione.thompson@spcsc.hawaii.gov&gt;

Cc: Katy DeBruinPlencner <katy.debruinplencner@spcsc.hawaii.gov>, PJ Foehr <pj.foehr@spcsc.hawaii.gov>, Christian Doyle <chris.doyle@spcsc.hawaii.gov>, Allan Silva <allan.silva@spcsc.hawaii.gov>, Kaleo Iwasaki <Kaleo.Iwasaki@spcsc.hawaii.gov>, Jennifer Higaki <jennifer.higaki@spcsc.hawaii.gov>, Yvonne Lau <Yvonne.Lau@spcsc.hawaii.gov>, Scott Hall <scott.hall@spcsc.hawaii.gov>, Danny Vasconcellos <Danny.Vasconcellos@spcsc.hawaii.gov>, Sylvia Silva <Sylvia.Silva2@spcsc.hawaii.gov>, Mary Jane Munoz <MaryJane.Munoz@spcsc.hawaii.gov>, Jannelle Watson <Jannelle.Watson@spcsc.hawaii.gov>, Kathryn Smith <kathrynsmith8@gmail.com>

Aloha Sione and commission staff,

It has been brought to my attention that there is confusion about my position at Kanuikapono PCS. To clarify, I am still the Executive Director/Head of School, Changes have been made to the Governing Board, and your office should be receiving an updated Board Directory by the end of the week.

Mahalo nui,  
Ipo Torio.



# Kanuikapono INC-PCS

## Joint Emergency Meeting Minutes

April 16, 2018, 4:00-6:00 pm

(These minutes will be approved at the 5/2/18 Board Meeting)

### Attendees:

Nestor Figueroa, Kanu INC Chair/PCS Director  
Nalani Kaneakua, Kanu INC/PCS Director  
Kamahalo Ka'uhane, Kanu INC Director  
Ipo Torio, Kanuikapono PCS Interim Executive Director & INC CEO/Director  
Darlene M. Pa, Kanuikapono PCS Director  
Puna Dawson, Kanuikapono PCS Director (via Conference Call at (808) 652-3811)  
Kanani Aton, Kanuikapono PCS Director (via Conference Call at (808) 987-3056)  
Peggy Figueroa, Financial Consultant (via Conference Call at (808) 645-6038)  
Kathryn Smith, Kanuikapono PCS Dean of Students and Staff

## Meeting Agenda and Minutes

### 1. Discussion: Findings & State of Affairs

- a. **Governing Board Composition Compliance:** Puna Dawson resigned as Chair, Executive Session 3/29/18 Special Meeting
- b. **Governing Board Composition Compliance:** Essie Williams became Interim Chair (3/29/18), Executive Session 3/29/18 Special Meeting
- c. **Governing Board Composition Compliance:** Essie Williams resigned as Interim Chair and Director, notice received 4/2/18 via email
- d. **Governing Board Composition Compliance:** Kanu INC board by resolution nominated Nalani to become Interim Kanu PCS Board Chair
  - i. Move to confirm Nalani Kaneakua as Interim Kanu PCS Board
    1. Motion: Nestor
    2. Second by: Darlene
    3. Vote Aye: Nestor, Darlene, Kamahalo, Nalani
    4. Abstain: Puna, Ipo, Kanani
- e. **Administrative Intervention Update:** One staff member was put on suspension with pay while the Administration is initiating an investigation. Legal representation for the Board has been acquired and no further personnel action will occur without official legal recommendations. Discussion occurred between Directors Dawson and Figueroa regarding the incident that occurred in the front office on the day of the "lock-out".
- f. **Notice of Concern, Financial Audit**
  - i. **Reconciliation of INC-PCS Nakoa and KS Accounts, ED credit card charges, and ED reimbursements** - all transactions occurring from January 2016 - present have been reconciled and balanced for both PCS and INC. All monies and receipts have been appropriately accounted for and a full report will be presented at the next regular Governing Board

## EXHIBIT 2

meeting. The back-up documentation and detailed reports are available for review upon request.

- ii. **Reconciliation of Chart of Accounts** is 80% complete. A full report will be provided to the board at the next regular board meeting.
- iii. **Personnel** - Files have been audited for required forms and information. Need adjustments to address deficiency in HR intake processes, personnel file management, and employee data will be resolved before the employee hiring and intake process begins for next school year.

## 2. Introduce the New Organizational Structure of Kanu I Ka Pono Learning Center

- a. Kanu I Ka Pono Learning Center (Kanu INC) to serve as umbrella organization.
- b. Proposed Long Term - New Organizational Structure Document
  - i. Kanu I Ka Pono Learning Center Organizational Chart:
    - 1. [https://docs.google.com/drawings/d/1Y4F\\_5T6pt8t0Hqn1IUdLqSdUhoYhxttiAEqFPUSF5PU/edit?usp=sharing](https://docs.google.com/drawings/d/1Y4F_5T6pt8t0Hqn1IUdLqSdUhoYhxttiAEqFPUSF5PU/edit?usp=sharing)
    - 2. Ho'okāko'o Organizational Chart for reference:
      - a. <https://drive.google.com/open?id=0BzuO8o6cNJ-ERFZqWnhRb1NxbU9Mb3oxM2t0TVJiYjJodzBj>
      - b. Questions, comments. Nestor proposed an option with INC as an umbrella, the proposed structure is already being used by Ho'okāko'o. Ipo stated that the current INC-PCS is still an option as well. Director Dawson, feels that this is great conceptually, but moving too fast.
      - c. Move to accept new organizational structure
        - i. Motion by Darlene to accept the new proposed structure.
        - ii. Second: Kamahalo
        - iii. Vote Aye: Darlene, Kamahalo, Nalani, Nestor
        - iv. Abstain: Ipo, Puna, Kanani
- c. Move to dissolve Kanuikapono PCS Governing Board
  - i. Motion: Nalani
  - ii. Second: Darlene
  - iii. Vote Aye: Nalani, Darlene, Kamahalo, Nestor
  - iv. Abstain: Puna, Ipo, Kanani
- d. Move to nominate Darlene Pa to be a Kanu INC Board member
  - i. Motion: Nestor
  - ii. Second: Nalani
  - iii. Vote Aye: Unanimous
- e. Move to nominate Kanani Aton to be a Kanu INC Board member effective 6/1/18
  - i. Motion: Nestor
  - ii. Second: Darlene
  - iii. Vote Aye: Unanimous
- f. Move to nominate Nalani Kaneakua to be reinstated as a Kanu INC Board member
  - i. Motion: Kamahalo
  - ii. Second: Darlene Pa
  - iii. Vote Aye: Unanimous
- g. Establish Interim School Governing Board



## EXHIBIT 2

- i. Move that the INC Board (now including 3 previous PCS Governing Board members) serve as interim Governing Board.
    - ii. Motion: Darlene
    - iii. Second: Nestor
    - iv. Vote Aye: Nalani, Kamahalo, Darlene, Nestor
    - v. Abstain: Ipo, Kanani
  - h. Establish Interim School Governing Board Executive Officers
    - i. Move that Nalani Kaneakua serve as Interim Governing Board Chair and Darlene serve as Interim Secretary
    - ii. Motion: Ipo
    - iii. Second: Nestor
    - iv. Vote Aye: Unanimous
3. **Next Board Meeting** - Wed, May 2 2018 5:00pm
- a. Review and approve revised By-laws (to include recommendation regarding exemption vs. preference for siblings policy)
  - b. Review candidates for Governing Board of Directors
  - c. Report from Financial Consultant
  - d. Administrative Intervention update
  - e. Lottery Update
  - f. Budget and Staffing Plan for SY 18-19 - Discussion
  - g. Leadership Transition Plan for SY 18-19 - Discussion
  - h. Set Board meeting calendar and dates for Board Training and Planning
  - i. Executive Director to finalize agenda, send out meeting notice, and update Governing Board page on School Google Site.



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

## ADVISORY OPINION NO. 2015-2

The Hawaii State Ethics Commission (“Commission”) has learned that some members of public charter school governing boards and some employees of public charter schools may also be employed by private non-profit organizations that were established to support the charter schools. This situation creates concerns under Hawaii Revised Statutes (“HRS”) chapter 84, the State Ethics Code. Specifically, the conflicts of interests section of the State Ethics Code prohibits a charter school governing board member or employee in this situation from taking official action on behalf of the charter school affecting the non-profit organization. It also prohibits the individual from assisting the non-profit organization in matters before the charter school, and from acting as a representative for the non-profit organization in its interactions with the charter school. Additionally, as discussed below, a provision of the State Ethics Code may be applicable where a member of a governing board or an employee of a charter school is not currently an employee of a supporting non-profit organization but may be contemplating such employment.

### Members of Governing Boards and Employees of Charter Schools Serving as Employees of Affiliated Non-Profit Organizations

Charter schools are public schools that operate under a contract with the State Public Charter School Commission (“SPCSC”).<sup>1</sup> Each charter school is overseen by a governing board.<sup>2</sup> Each charter school hires its own employees. Public charter schools are state agencies for purposes of the State Ethics Code.<sup>3</sup> Members of governing boards and employees of public charter schools are considered state employees for

<sup>1</sup> HRS section 302D-4(8)(g).

<sup>2</sup> HRS section 302D-12(e).

<sup>3</sup> In relevant part, HRS section 84-3 reads:

**§84-3 Definitions.** “State agency” includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices, the University of Hawaii, and all independent commissions and other establishments of the state government but excluding the courts.

purposes of the State Ethics Code and are required to comply with the State Ethics Code.<sup>4</sup>

The Commission understands that there are non-profit organizations established for the specific purpose of applying to the SPCSC for a charter to establish a school, and/or for the purpose of supporting a charter school. Among other things, the supporting non-profit organization may assist in fundraising for the school, may enter into business agreements on behalf of the school, and may seek grants that benefit the school. The non-profit organization has its own officers and directors. Some non-profit organizations may also employ a staff.

A charter school and its supporting non-profit organization may conduct business transactions with each other. For example, a charter school may contract with the non-profit organization for services or property. In these situations, charter school governing board members or employees may be called upon to take action, on behalf of the school, affecting the non-profit organization. Such actions may include: negotiating or approving contracts with the non-profit organization; authorizing payments to the non-profit organization; and participating in meetings with the non-profit organization in order to determine what actions the non-profit organizations should take on behalf of the charter school.

The Commission has discovered that members of charter school governing boards, as well as charter school employees, may also be paid employees of these supporting non-profit organizations. These dual roles may constitute prohibited conflicts of interests under the State Ethics Code.

#### Application of the State Ethics Code HRS Section 84-14(a)

The State Ethics Code prohibits a state employee from taking official action directly affecting a business in which the employee has a financial interest. Specifically, HRS section 84-14(a) states:

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<sup>4</sup> In relevant part, HRS section 84-3 reads:

**§84-3 Definitions.** “Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices and judges.

Further, HRS section 302D-12(h) states:

**§302D-12 Charter school governing boards; powers and duties. (h)** All charter school employees and members of governing boards shall be subject to chapter 84.

**§84-14 Conflicts of interests.** (a) No employee shall take any official action directly affecting:

(1) A business or other undertaking in which the employee has a substantial financial interest. . . .

“Official action” is defined as any action, including inaction, involving discretionary authority.<sup>5</sup> “Financial interest” is defined in HRS section 84-3:

"Financial interest" means an interest held by an individual, the individual's spouse, or dependent children which is:

- (1) An ownership interest in a business.
- (2) A creditor interest in an insolvent business.
- (3) An employment, or prospective employment for which negotiations have begun.
- (4) An ownership interest in real or personal property.
- (5) A loan or other debtor interest.
- (6) A directorship or officership in a business.<sup>6</sup>

“Business” includes both profit and non-profit organizations.<sup>7</sup>

Under the State Ethics Code, a charter school governing board member or employee who is employed by a non-profit organization has a “financial interest” in the organization and is prohibited by the statute from taking any official action affecting the organization. “Official action” is broadly defined and includes not only final decision-making, but any discretionary action, including making any suggestions or recommendations that affect the non-profit organization. Thus, for example, a member of a governing board who is also employed by a non-profit organization may not: vote to approve payments to the non-profit organization; vote to enter into a contract with the non-profit organization; or recommend or otherwise suggest that the governing board take action affecting the non-profit organization. Similarly, an employee of a charter school who is employed by a non-profit organization may not: issue checks to the non-profit organization; authorize or approve payments or reimbursements to the non-profit organization; or recommend or suggest any action affecting the non-profit organization. In these situations, the governing board member or charter school employee must

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<sup>5</sup> HRS section 84-3.

<sup>6</sup> A “financial interest” includes not only an employment interest, but also an officership or directorship position. The Commission is aware that some members of governing boards and employees of charter schools may be serving as uncompensated officers or directors of affiliated non-profit organizations. The Commission is considering whether this situation also raises conflicts of interests concerns. This Advisory Opinion only addresses the situation in which the individual is a paid employee of the non-profit organization.

<sup>7</sup> HRS section 84-3.

recuse himself or herself from taking any official action affecting the non-profit organization.

HRS Section 84-14(d)

Another section of the conflicts of interests law prohibits a state employee from being compensated to assist or represent a person or business on matters before the employee's own state agency, or on matters in which the employee has participated or will participate. HRS section 84-14(d) provides:

**§84-14 Conflicts of interests.** (d) No legislator or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which the legislator or employee has participated or will participate as a legislator or employee, nor shall the legislator or employee assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the legislature or agency of which the legislator or employee is an employee or legislator.

A charter school governing board member or employee who is also a paid employee of a non-profit organization cannot assist or represent the non-profit organization in any transactions with the school. For example, a governing board member or employee may not: represent the non-profit organization in meetings with school personnel; speak on behalf of the non-profit organization before the governing board; negotiate a contract or agreement with the charter school; assist in drafting any contract or agreement with the charter school; or prepare or submit invoices to the charter school.

Other Provisions of the State Ethics Code

Depending on the facts of a specific situation, other sections of the State Ethics Code may also be applicable. For example, a member of a governing board or an employee of the school who is not currently an employee of a non-profit organization cannot become an employee if the individual will, in the future, be asked to take action affecting the non-profit organization.<sup>8</sup> Thus, a member of a governing board who reviews or approves agreements between the charter school and a non-profit organization cannot accept employment with the non-profit organization. Employees of the school and members of the governing board are also prohibited from using their state positions to grant the non-profit organization, its officers, directors, contractors, or anyone else any special treatment, or unwarranted advantage or benefit. Finally, members of the governing board and employees of a charter school may not use or disclose confidential state information. For example, these individuals may review quotes for goods or services or other confidential procurement information. This

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<sup>8</sup> HRS section 84-14(b).

information may not be shared with a non-profit organization or used to benefit a non-profit organization.

The Commission strongly recommends that members of governing boards and employees of charter schools who also serve as employees of affiliated non-profit organizations contact the Commission's office for further advice.

Dated: Honolulu, Hawaii, August 19, 2015.

HAWAII STATE ETHICS COMMISSION

Susan N. DeGuzman, Chair

David O'Neal, Vice Chair

Ruth D. Tschumy, Commissioner

Melinda Wood, Commissioner

Reynaldo D. Gaulty, Commissioner

**Kanuikapono PCS  
Policy Manual**

# KANUIKAPONO



*"Cultivating the 21st Century Ahupua'a"*

## **Kanuikapono Public Charter School Policy Manual**

Physical Address:  
**4333 Kukuihale Road, Anahola**

Mailing Address:  
**P.O. Box 734  
Anahola, Hawaii 96703**

**[www.kanuikapono.org](http://www.kanuikapono.org)**

**Kanuikapono PCS  
Policy Manual**

must be Highly Qualified or actively pursuing HQ status.

### **Teacher Observations**

All teaching staff will be observed on an on-going basis by their DIL using both formal and informal observations. Formal observations will include a post-observation conference. First year teachers shall have at least one formal observation prior to their three-month review. Prior to the six-month review, at least one additional formal observation will be conducted for first year teachers. Returning teachers will have one formal observation per year. Results of all observations will be put in writing and shared with the teacher. A copy will be placed in the teacher's personnel file.

Teachers shall have the right to make written objections to the observations or review findings within one week of receipt. These objections will be attached to the observation and/or evaluation and kept in the employee's personnel file.

## **ADMISSIONS POLICIES**

### **Eligibility**

Kanuikapono is a public school of choice. All students who are residents of and live in the County of Kaua'i are therefore eligible to apply for admission to Kanuikapono. Out-of-state or visiting students are ineligible and will not be considered for admission.

In order to reasonably execute Kanuikapono's mission<sup>1</sup> of providing underserved children with an education that is grounded and steeped in native Hawaiian values, practices, and traditions, eligible applicants are welcome to apply provided they also demonstrate a genuine interest and commitment to:

1. Upholding Kanuikapono's academic and cultural mission and values, & traditions
2. Being an active, positive, contributing member of our learning 'ohana
3. Consistent appropriate behavior

### **Open Enrollment**

Kanuikapono shall hold an open enrollment period every year to accept eligible applicants for admission for the subsequent school year. This duration of the open enrollment period shall be

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<sup>1</sup> In accordance with federal law, charter schools may set minimum qualifications for admission to the extent that such qualifications are reasonably necessary to achieve the educational mission of the charter school. See U.S. Department of Education Charter Schools Program, Title IV Part B: Non-Regulatory Guidance, July 2004, 14-15.



**Kanuikapono PCS  
Policy Manual**

4-5 weeks beginning the second week of February and ending the second week of March of every year. For those families whose second language is English or may have difficulty completing the application process, Kanuikapono shall make every attempt to assist them in submitting completed applications. All eligible students who submit completed applications during the open enrollment period shall be accepted for enrollment if vacancies are available.

If the total number of eligible applicants is less than or equal to the number of vacant seats, all students shall be admitted on a first-come, first-served basis. However, if the total number of eligible applicants exceeds the number of vacant seats, all applications shall be selected via a lottery (also known as a public random drawing). Parents need not be present.

**Lottery**

All new applicants are subject to the lottery if, as of the closing date of the open enrollment period, the total number of applicants exceeds the number of vacant seats. The lottery shall be held no later than ten (10) days after the enrollment period closes. If the tenth day falls on a weekend, the lottery shall be held on the first ensuing Monday. In accordance with federal law, the lottery shall include four stipulations:

A. The following category of students shall be exempt from the lottery:

- 1) Current and returning students
- 2) Siblings of students already admitted to or attending Kanuikapono and are in good standing
- 3) Children whose parents, grandparents, or guardians are Kanuikapono employees
- 4) Children whose parents, grandparents, or guardians are Founders and Board Members

B. The following category of students shall be given a geographic preference upon verification by the enrollment committee.

- 1) Applicants who have resided in Anahola for at least one year from the end date of the enrollment period may receive preference in a weighted lottery (one point equivalent to five additional lottery ticket).

**Waiting Lists**

All non-placed students shall be wait-listed for each grade in the order in which they are drawn in the lottery. The waiting list shall be maintained for use throughout the ensuing year

**Kanuikapono PCS  
Policy Manual**

only. If an applicant has not been selected for admission in a given year, he/she must reapply the following year. Example:

Feb-Mar 2013: 25 new completed applications are submitted during the open enrollment period for 15 available seats in the kindergarten class. A lottery is announced.

March 20, 2013: A lottery is held, and 15 students' names are publicly drawn at random. The 10 remaining students' names are also drawn, in order, constituting the waiting list to be numbered 1 through 10. Once the 10 names are drawn, the waiting list is complete and the lottery is ended. Note: the waiting list can only be used for filling vacant seats in the 2013-14 SY.

Aug 2013: 15 new kindergarten students begin Kanuikapono

Dec 2013: 3 kindergarten seats suddenly become vacant. The first 3 students' names on the waiting list can now fill the vacant seats for the rest of the school year. The remaining 7 students (Numbers 4 - 10 on the waiting list) are available for any seats that may open up during 2013-14 SY.

Feb-Mar 2014: The 7 remaining students reapply during the open enrollment period. All 7 students are accepted and admitted to the 1<sup>st</sup> Grade in 2014-15 SY.

April 2014: 1 kindergarten seat opens. Number 4 on the waiting list takes the seat and is concurrently removed from the 1<sup>st</sup> Grade admissions roster for 2014-15 SY.

## **DISENROLLMENT POLICY**

### Disenrollment requested by the parent:

If at some point the educational services are no longer required, disenrollment maybe requested. In this case, the parent will pick up the withdrawal forms from the Registrar. The Registrar will explain the disenrollment procedure at that time. Prior to



May 4, 2018

Aloha mai e nā 'ohana o Kanuikapono,

We are so happy to receive your application/s for next school year. Our records show that your child is a sibling of a student currently attending Kanuikapono. In previous years, siblings have received an exemption from the lottery. Due to the amount of sibling applications for next school year the exemption is no longer applicable. However, siblings will receive preference by having additional five tickets in the lottery. The lottery has been scheduled for next Friday May 11, 2018 for 3:00pm at the school Halau. This is a public lottery so all are welcome to attend. Notification of Acceptance/Waitlist status is planned to go out the following Monday, May 14th.

Best wishes and good luck to you and your applicant in the upcoming lottery.

Mahalo nui loa,

Ipo Tono, Executive Director  
Kanuikapono Public Charter School

4333 Kukuihale Road, Anahola, Hawaii 96703 P.O. Box 12 Anahola, Hawaii 96703  
OFFICE (808) 822-9032 / FAX (808) 482-3055



# **`Ohana Handbook**

# **KANUIKAPONO**



*“Cultivating the 21<sup>st</sup> Century Ahupua’a”*

**KANUIKAPONO PUBLIC CHARTER SCHOOL**

School Year 2017-2018

## **ADMISSION POLICIES AND PROCEDURES**

### **NEW STUDENTS**

By choosing to apply to Kanuikapono, you are exercising a very important choice in taking direct responsibility for how your child is educated. Public charter schools are schools of choice, and all interested children are welcomed and encouraged to apply, provided they demonstrate genuine interest and commitment to:

1. Being an active, positive, contributing member of our learning ‘ohana
2. Demonstrate a basic understanding of our mission, values, and traditions
3. Demonstrate consistently appropriate behavior
4. Abide by the rules and policies of the school

If the school receives more applications than available spaces, a weighted lottery will be held. Current students in “good standing” are given preference and may be exempt from the lottery. Geographic preferences may be granted to Anahola families upon verification and approval by the committee.

### **RETURNING STUDENTS - GOOD STANDING POLICY AND RE-ENROLLMENT**

“Good standing” is defined as a student who is current on all financial obligations, has fulfilled all disciplinary agreements, attends school on-time regularly, meets all Hana Makua obligations, demonstrates expected academic growth, has no major behavioral infractions, and demonstrates expected ‘Ike Hawai’i growth and participation. Students who are not in “good standing” may be disenrolled from the school, and are required to re-apply as a new student for the following year.

### **DISENROLLMENT POLICY**

#### **Disenrollment requested by the parent:**

If at some point the educational services are no longer required, disenrollment may be requested. In this case, the parent will pick up the withdrawal forms from the Front Office. The parent will receive the disenrollment procedure at that time. Prior to disenrollment, required forms and approval must be obtained from parents and the Department of Education. Student files shall not be transferred without completed required paperwork.

EXHIBIT 5  
**Kanuikapono Public Charter School**  
**New Student Application**  
School Year 2018-2019  
Grades K - 12

Please include the following with your signed and completed application:

- ☐ A copy of student's most recent report card
- ☐ Proof of Hawaii Residency (i.e. utility bill, cell phone bill)
- ☐ Guardianship/Adoption Papers/Court Orders if applicable
- ☐ Birth Certificate

Return completed application with attached documents to Kanuikapono, postmarked on or before **Wednesday, April 4, 2018**.

Mail to:        Kanuikapono Public Charter School  
                    Attn: Admissions  
                    PO Box 12  
                    Anahola, HI 96703

Applications received after Wednesday, April 4, 2018, will be reviewed on a space-available basis. Kindergarten applicants must turn 5 years old on or before July 31, 2013.

**Kanuikapono Public Charter School**  
**New Student Application**

EXHIBIT 5

**1. STUDENT INFORMATION**

Student's Legal Name \_\_\_\_\_ Gender: Female \_\_\_\_\_ Male \_\_\_\_\_ DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Last \_\_\_\_\_ First \_\_\_\_\_ Middle Initial \_\_\_\_\_ Suffix \_\_\_\_\_

\_\_\_\_\_  
Physical Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

\_\_\_\_\_  
Mailing Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Current Grade (Pre K-11): \_\_\_\_ Grade Applying for (K-12): \_\_\_\_

\_\_\_\_\_  
Name of Previous School \_\_\_\_\_ Last Grade Attended \_\_\_\_\_

**2. FAMILY INFORMATION**

Does the applicant have siblings that currently attend or have ever attended Kanuikapono? Yes No  
If so, whom? \_\_\_\_\_

Does the applicant have a parent, grandparent, or guardian working for Kanuikapono or on the Governing Board? Yes No  
If so, whom? \_\_\_\_\_

**3. PARENT/LEGAL GUARDIAN INFORMATION**

**Parent/Guardian 1** Lives with Student: Yes No Relationship: \_\_\_\_\_

\_\_\_\_\_  
Last, First \_\_\_\_\_ Middle Initial \_\_\_\_\_ Cell Phone \_\_\_\_\_

\_\_\_\_\_  
Physical Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_ Work Phone \_\_\_\_\_

\_\_\_\_\_  
Mailing Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_ Email \_\_\_\_\_

**Parent/Guardian 2** Lives with Student: Yes No Relationship: \_\_\_\_\_

\_\_\_\_\_  
Last, First \_\_\_\_\_ Middle Initial \_\_\_\_\_ Cell Phone \_\_\_\_\_

\_\_\_\_\_  
Physical Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_ Work Phone \_\_\_\_\_

\_\_\_\_\_  
Mailing Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_ Email \_\_\_\_\_

**Kanuikapono Public Charter School  
New Student Application**

EXHIBIT 5

**4. SPECIALIZED SERVICES INFORMATION (OPTIONAL)**

Please answer the following questions to the best of your ability:

- Is applicant currently receiving these services:      ☐ IDEA (SPED)      ☐ 504      ☐ None  
Please check all services applicant is currently receiving as part of IEP/504 Plan:  

<input type="checkbox"/> Special Education Modification in Regular Classroom	<input type="checkbox"/> Special Education Classroom Instruction
<input type="checkbox"/> School-Based Counseling	<input type="checkbox"/> Group Counseling
<input type="checkbox"/> Individual Counseling	<input type="checkbox"/> Family Counseling
<input type="checkbox"/> Speech Therapy	<input type="checkbox"/> Physical or Occupational Therapy
<input type="checkbox"/> Deaf, Hearing-Impaired, or Vision-Impaired Services	<input type="checkbox"/> After-School Tutoring
<input type="checkbox"/> Other: _____	
  
- Do you know of any existing physical or mental disability and/or medical surgical conditions that may limit, restrict, or impair applicant's participation in school activities?      Yes      No  
  
If yes, please explain. \_\_\_\_\_
  
- Does your student require treatment, medication or special accommodations?      Yes      No  
  
If yes, please explain. \_\_\_\_\_
- Does your student have any other unique needs and/or concerns?      Yes      No  
  
If yes, please list. \_\_\_\_\_
  
- Has your student ever been held back a grade level?      Yes      No
  
- Does your student receive English Language Learner (ELL) Services?      Yes      No

**5. REFERENCES (OPTIONAL)**

Name: _____	Name: _____	Name: _____
Email: _____	Email: _____	Email: _____
Tel: _____	Tel: _____	Tel: _____

Please say in a few sentences why you think Kanuikapono is a good fit for your child.

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\*Note: If you are not the student's birth parent, you must provide a Certified True Copy of the Transfer of Custody/Legal Guardianship. Documentation indicating the purpose of the transfer of custody may also be requested.

**By signing below I certify that all information I have supplied is true to the best of my knowledge.**

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Parent/Guardian Print Name

\_\_\_\_\_  
Date



# HŌ'OMAU PROGRAM HANDBOOK



KANUIKAPONO PUBLIC CHARTER SCHOOL  
SCHOOL YEAR 2018-2019

**Early College Cohort (insert)**

**KAUAI COMMUNITY COLLEGE DUAL CREDIT OPTIONS (for Juniors and Seniors)**

**ADMISSION POLICIES AND PROCEDURES**

Kanuikapono welcomes your child, and does not select students based on academic performance and/or behavior. By law, Kanuikapono will not discriminate against any student based on race, ethnicity, national origin, sex, sexual orientation, income, or disability in its Admissions process.

By choosing to apply to Kanuikapono, you are exercising a very important choice in taking direct responsibility for how your child is educated. Public charter schools are schools of choice, and all interested children are welcomed and encouraged to apply, provided they demonstrate genuine interest and commitment to:

1. Being an active, positive, contributing member of our learning 'ohana
2. Demonstrate a basic understanding of our mission, values, and traditions
3. Demonstrate consistently appropriate behavior
4. Abide by the rules and policies of the school

If the school receives more applications than it has space available a weighted lottery will be held. Geographic preferences may be granted to Anahola families upon verification and approval by the committee.

**Returning Students**

As a Kanuikapono parent, you must re-enroll your child annually. In March of each school year, you will receive a short Re-Enrollment Packet that must be completely filled out before your child can be readmitted for the coming school year. Having your enrollment packet completed allows our staff to plan and properly meet all students' needs. Students that are not in good standing will need to reapply. In the event that there are more applicants than there are spaces available a lottery will occur. Students in good standing are eligible for the first lottery

**DISENROLLMENT POLICY**

**Disenrollment requested by the parent:**

If at some point the educational services are no longer required, disenrollment maybe requested. In this case, the parent will pick up the withdrawal forms from the Registrar.

## EXHIBIT 6

The Registrar will explain the disenrollment procedure at that time. Prior to disenrollment required forms and approval must be obtained from parents and the D.O.E. Student files shall not be transferred without completed required paperwork.

### Disenrollment requested by Kanuikapono

A student with Special Needs that cannot be provided by the school:

If at some point it is decided that the students special needs cannot be met by Kanuikapono, the IEP shall reflect this. The parent shall be informed in person at the annual IEP meeting or via certified mail and the student will be dis-enrolled. The parent will then be notified either in person or certified mail that the student has been dis-enrolled from Kanuikapono.

A student that demonstrates excessive truancy/absenteeism:

The parent of a student with 25 or more unexcused absences will be informed in person when possible and via certified mail that the student will be dis-enrolled from the school's roster and that a petition for educational neglect will be filed with the appropriate agency and authority. The school will send a follow-up letter notifying the parent of the effective date of disenrollment and the date in which the petition for educational neglect was filed. Students that are dis-enrolled for this reason will not be counted on the average daily attendance report.

### **SCHOOL HOURS:**

Monday	7:50 0am – 2:30
Tuesday	7:50 0am – 2:30
Wednesday	7:50 0am – 1:15
Thursday	7:50 0am – 2:30
Friday	7:50 0am – 2:30

*Note: Please consult the School Calendar for additional early dismissal times throughout the year*

### **PIKO**

Piko is our school-wide morning (8:30) and afternoon protocol that consists of foundational chants, directional (e.,g, East,West,North,South) messages, and special introductions/acknowledgements. Students must be in their Piko lines before the final pu (e.g., instrument such as a conch shell, etc.) is blown. Late students are required to chant by themselves. Parents, `ohana, and the community are welcome to join us for Piko each morning.

### **NUTRITION REQUIREMENTS (SNACKS AND LUNCH):**

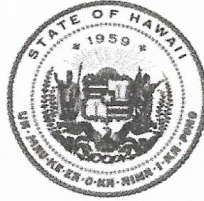
Students are required to bring a healthy snack and lunch each day. Candy, gum, soda, and any other caffeinated drinks (i.e. energy drinks) are strictly prohibited. Be sure that your child has

EXHIBIT 7  
 Kanuikapono Governing Board Roster  
 School Year 2017-2018

Last Name	First Name	Officer Position	Term	Contact Phone Number	Contact Email	Related to an Employee	Vendor or contractor
Dawson	Cecilia	Chairman	Perpetual Seat	(808) 652-3811	<a href="mailto:punakalama@gmail.com">punakalama@gmail.com</a>	X	
Medeiros	Esther	Vice Chair	Year 3 of a 3 three term	(808)639-3318	<a href="mailto:kauaialoha1@hotmail.com">kauaialoha1@hotmail.com</a>		
Pa	Yvonne	Secretary	Year 2 of a three year term	(808 635-6216	<a href="mailto:tutupa@msn.com">tutupa@msn.com</a>		
Kaneakua	Nalani	Director	Year 1 of 3 year term				
Miyake	Brian	Treasurer	Ex-officio	(808) 2468788	<a href="mailto:bryanm@hawaiilink.net">bryanm@hawaiilink.net</a>		X
Torio-Ka`uhane	Ipo	Ex-officio	Ex-officio	(808)6450948	<a href="mailto:ipotorio@kanuikapono.org">ipotorio@kanuikapono.org</a>	X	
Smith	Kathryn	HSTA Representative	Non-voting	(808) 278-7133	<a href="mailto:kathrnwsmith8@gmail.com">kathrnwsmith8@gmail.com</a>		
		Student Rep	Vacant				

**Exhibit 3**

**School's Response to the May 15, 2018 Notice of Concern  
Regarding the School's Organizational Performance**



STATE OF HAWAII  
STATE PUBLIC CHARTER SCHOOL COMMISSION  
(‘AHA KULA HO‘ĀMANA)  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

## RESPONSE TO NOTICE OF CONCERN FORM

Issue of Concern: **Statutory composition requirements of the Governing Board and school policies and procedures**

NOC #: NOC #1718o58

Sent to Purported Governing Board Chair of Kanuikapono Public Charter School on May 15, 2018

**Response Deadline: May 29, 2018**

On behalf of Kanuikapono Public Charter School, I hereby affirm:

☐ **Option 1:** The issues of concern were completely remedied by the response deadline.

Included below is:

- A description of the remedy

☐ **Option 2:** The issues of concern were not completely remedied by the response deadline, but the remedy is currently in progress.

Included below is:

- A description of the corrective action plan designed to remedy the issues of concern
- A timeline and deadline for each action within the plan
- The person(s) responsible for each action within the plan

☒ **Option 3:** The school governing board would like to dispute issue(s) of concern.

Included below is:

- A description of the dispute with the issue(s) of concern
- Evidence supporting the school governing board's disagreement with the issue(s) (if necessary, please attach additional documentation)

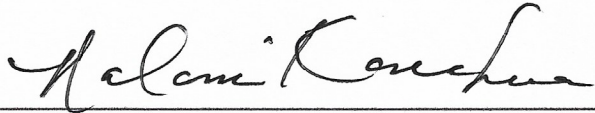
***Input here descriptions of the remedy, corrective action plan, or dispute for the issue(s) of concern and other required information, as outlined above:***



*I am aware that the issues of concern will be escalated to the Commission for consideration at a general business meeting if the school governing board fails to do any of the following:*

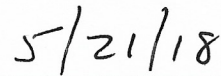
- *Respond to the Notice by the deadline using one of the options listed above.*
- *Submit a corrective action plan that is mutually agreeable to both the school governing board and Commission staff.*
- *Make progress toward remedying the issues of concern according to the accepted corrective action plan.*

*I also understand that the Executive Director's Report to the Commission during general business meetings shall include de-identified updates on issued Notices of Concern, remedies, and implementation of approved corrective action plans.*



Signature

Governing Board Chair, «School\_Name»



Date

KANUIKAPONO



"Cultivating the 21st Century Ahupua'a"

**KanuiKapono Public Charter School**  
4333 Kukuihale Road, Anahola, HI 96703  
(808) 823-9160

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

[kanuiKaponoCharterschool@gmail.com](mailto:kanuiKaponoCharterschool@gmail.com)

Mailing Address: Post Office Box 12 Anahola, HI 96703

June 1, 2018

Aloha Sione,

Over the last ten weeks the Interim Governing Board has taken several steps towards compliance, strengthening, and restructuring. We are very pleased to have successfully completed another school year with amazing student results despite the crisis and disruption that has occurred with the school's governing board. The Board has consulted with Deputy Gregg Ushiroda and provides the following is response to the Hawaii Charter School Commission Notice of Concern dated May 15, 2018.

**Concern #1:**

In regards to your statement, first, 302D-12(a) HRS states that not more than one-third of the voting members of the board shall be employees or former employees, unless one year has passed since the conclusion of employment; relatives of employees or former employees, unless one year has passed since the conclusion of employment; or vendors or contractors providing services to the charter school. Employees, relatives and contractors or vendors shall not exceed one-third of the governing board's voting membership. The changes to the governing board, as reported by the school, appear to violate this statute.

**Response #1**

We have been in the process of restructuring our organization. Below is our current board membership and their associated affiliations. All its members are in compliance according to 302D-12(a), HRS. The below list has been updated on our school website ([www.kanuiKapono.org](http://www.kanuiKapono.org)) and has been emailed to Silva Silva, Organizational Performance Officer on June 1, 2018.

<b>KanuiKapono Public Charter School Governing Board of Directors</b>				
<b>Name</b>	<b>Position</b>	<b>Vote</b>	<b>Affiliation</b>	<b>Related to/is an Employee</b>
Nestor Figueroa	Chair	Yes	Founding Parent, Former Kanu INC Chair Former Charter School Co- Director	No
Nalani Kaneakua	Vice Chair	Yes	Kupuna, Community Member, Cultural Specialist	No
Yvonne Pa	Director	Yes	Kupuna, Community Member	No
Kanani Aton	Director	Yes	Founding Member, Educator, Cultural Specialist	No



Donald Jones	Director	Yes	Teacher, Parent, Community Member (Note: this is a not teacher director seat)	Yes
Kathryn Smith	Director	Ex-Officio	Po‘o Kumu, Charter School Program Director	No
Lexus Gomes	Director	Yes	Alumni, college student, community member (to be confirmed at next Regular Board Meeting)	Yes

#### **Concern #2:**

In response to your second statement, the change to the governing board composition also appears to violate Section 3.1 of the Charter Contract between the Commission and Kanuikapono Public Charter School, whose governing board is the party to the Charter Contract. However, from the purported governing board minutes posted on the school's website, it appears that members of the associated non-profit, Kanuikapono INC, are now listed as members of the school's governing board.

#### **Response #2:**

None of the current Kanu PCS Governing board members are current Kanu INC board members. Please see attached exhibits of resignation letters from INC Board of Directors, Nestor Figueroa and Nalani Kaneakua.

#### **Concern #3:**

In response to your concern, the purported governing board minutes posted on our school's website, appears to show that members of the associated non-profit, Kanuikapono INC, are now listed as members of the school's governing board. The Commission will consult with the State Ethics Commission on this matter and the alleged violation of Advisory Opinion No. 2015-2.

#### **Response to #3**

There is no conflict of interest with any of the current Kanu PCS governing board members listed above. Some of the board members were former Kanu INC board members who have resigned from the Kanu INC Board in order to serve as Kanu PCS board members. This removes any conflict or violation according to the charter school law.

#### **Concern #4:**

In response to your fourth concern, Section 2.9 of the Charter Contract also states that the school shall not assign or subcontract any duty, obligation, right, or interest under the Charter Contract without prior written approval of the Commission. However, from the purported governing board minutes posted on the school's website, it appears that the associated non-profit, Kanuikapono INC, is acting as the school's "interim governing board". A violation of the provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract.

#### **Response to #4**

We have been restructuring Kanu PCS and during a two week period we setup an Interim Governing Board pooling all of our combined personnel resources. The Interim board was not the INC board and may have been a misunderstanding of our working organizational chart documents. We now have the Kanu Governing Board as listed above without any conflict of interests. The following is the current working organizational chart: <https://docs.google.com/drawings/d/1hLEKJrOyPK5Fk68amC7o9RC2HXEI6gBmDH0SbND2n8/edit?usp=sharing>

### **Concern #5:**

In response to the fifth concern, that the purported governing board minutes posted on our school's website do not include all of the required components. 302D-12(h) states that governing board minutes, among other items, shall at minimum include: the place of meeting; members of the governing board as either present or absent; the views of the board's members; the substance of all matters proposed, discussed, and decided by the board's members; and a record, by individual member, of any votes taken.

### **Response to #5**

Meeting minutes will be revised and reviewed/approved at the next scheduled Governing Board Meeting

### **Concern #6:**

In response to the sixth concern, that there is no legal record of the discussion, decision, and the votes taken by individual members of the school's governing board that validates the resignation of members or a legitimate seating of any new members as represented in the April 18, 2018 email to the Commission indicating changes to the school board.

### **Response to #6**

The school identified several areas of governance that needed to be addressed and resolved through the a self-study and action plan required of the accreditation process. Transparency and Board Composition were the two main areas of priority. Until recently, the school's governing board has not addressed the areas of non-compliance. Prior to the April 18th meeting, the Governing Board failed to take any action indicating an interest in compliance. Critical actions that needed to be resolved were; 1) Puna Dawson needed to step down as the Chair, 2) Vacant Director seats needed to be filled, and 3) un-authorized and inappropriate actions of individual Board members on behalf of the Governing Board.

### **March 29 Special Meeting**

This meeting marks the first step towards compliance with two critical actions taken by the Board 1) Acceptance of the verbal resignation of Cecilia Puna Dawson's as Board Chair and 2) Filling of two Director vacancies. At that same meeting, Esther Medeiros was nominated and accepted as the Interim Chair. Nalani Kaneakua and Yvonne Pa were recognized for being active and continuing Governing Board members. Two vacancies were filled with the addition of Kanani Aton and Nestor Figueroa. Nalani Kaneakua and Nestor Figueroa have both resigned from the Kanu Inc. board to alleviate all conflicts of interest. For days later, Nalani Kaneakua assumed the role as Chair when Esther Medeiros resigned from the Board via email.

### **April 18 Emergency Meeting**

An emergency meeting was called by Chair Kaneakua and Nestor Figueroa to address the need for continued action of the Governing Board. The April 18th meeting was posted on the school website and meeting calendar. It was not made clear to the Board that the meeting notice was required to remain on the website after the meeting was held. The meeting notice was removed from the site and replaced with the meeting minutes. Additionally, stakeholders were notified via email, texts, and a meeting notice posted in the Executive office. All Governing Board members were present, including two members via phone conference. All Board of Directors agreed to dissolve the existing Board and re-elect a new Board. All Board members were given an opportunity to nominate, all board members accepted the nominations, and all board members voted to confirm all nominees.

Given that strengthening the governing board and attaining compliance is a process to be achieved over time, We recognize that there was an oversight on our part when the meeting notice was removed from the school website. We invite your input to remedy this situation.

**Concern #7:**

In regards to the complaints you have received about our school's student application, its admission policy, and its dismissal policy. Upon review of these policies and the application the school appears to have practices that violate statute and/or the charter contract.

**Response to #7**

The Kanuikapono Public Charter School New Student Application has been updated as of June 1, 2018 on the school website and in the school Front Office to be distributed henceforth. Specifically, item numbers 4 & 5 in the document has been removed. The Governing Board and our Deputy Attorney General have agreed to work together to revise its bylaws, beginning with its admission and enrollment policies. The School with will "revise the by-laws of our Policy Manual and submit a new Policy Manual after its annual board meeting held in July. We will submit the policy manual to your office for review and will wait for your approval before posting an updated manual to our school site. We will also note on our school site that our policy manual and ohana handbook are undergoing revisions.

**Concern #8:**

In regards to the second issue 1) our school seems to be implementing enrollment preferences that have not been approved by the Commission and 2) is requesting information on its application form that violates student access and equity rights.

**Response to #8**

The school's application has been revised and reposted to the school website. Page 2 of all current applications are not required and have since been removed from the application. The Governing Board agrees to work closely with Deputy AG to revise its admissions and enrollments policies and preferences and submit them to you for approval being posting an updated manual to our school site. We will also note on our school site that our policy manual and ohana handbooks are undergoing revisions.

**Concern #9:**

In regards to the third issue, our school's disenrollment policy, included in it Ho'omau Program Handbook and the 'Ohana Handbook, violates statute and the Charter Contract. Section 7.7 of the Charter Contract states that schools 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.

**Response to #9**

We have deleted the Disenrollment Policy from the Ohana and Ho'omau Handbooks and changed the section entitled "Disenrollment requested by the parent" in the Ohana and Ho'omau Handbooks to "WITHDRAWAL" and within the text of this section, replace "disenrollment" with "withdrawal."

The same thing has been done with the DISENROLLMENT POLICY at pages 50 and 51 of the 6.8.18 Policy Manual.

Nalani Kaneakua  
Interim Kanuikapono PCS Governing Board Chair

**Exhibit 4**

**Exhibit D, Intervention Protocol, of the State Public Charter School Contract**

## **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 5**

**November 20, 2017 Notice of Concern Regarding Findings  
in their Fiscal Year 2016-2017 Annual Financial Audit**

DAVID Y. IGE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

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

<http://CharterCommission.Hawaii.Gov>  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

November 20, 2017

VIA EMAIL ([punakalama@gmail.com](mailto:punakalama@gmail.com))

Cecilia Dawson  
Chair, School Governing Board  
Kanuikapono Public Charter School  
Post Office Box 12  
Anahola, Hawaii 96703

RE: 2016-2017 Annual Financial Audit Findings

Dear Cecilia Dawson:

This letter will serve as a Notice of Concern ("Notice") as described in the Intervention Protocol, Exhibit D ("Intervention Protocol"), of the State Public Charter School Contract ("Charter Contract").

Kanuikapono Public Charter School was required to complete and submit an Annual Financial Audit for 2016-17. **The Financial Performance Framework of the Charter Contract requires this audit to be devoid of significant findings and conditions, material weaknesses or significant internal control weaknesses. The audit submitted reported the following findings:**

- **Reference #2017-1 (Material Weakness)**
- **Reference Number #2017-2 (Significant Deficiency)**

The School must complete the Response to Notice of Concern form (provided as an attachment to this Notice) by **December 4, 2017**, no later than 4:30 P.M., to ensure this issue is appropriately documented. Please return the Response to Notice of Concern form to the Commission at [frameworks.compliance@spcsc.hawaii.gov](mailto:frameworks.compliance@spcsc.hawaii.gov). Any questions regarding this Notice can be directed to Scott Hall at [scott.hall@spcsc.hawaii.gov](mailto:scott.hall@spcsc.hawaii.gov) or at 808-586-3835.

As specified under the Intervention Protocol, a response must be provided by the school governing board within fourteen calendar days of receipt of this Notice. 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, evidence of such remedy;



November 20, 2017

- ii. A written notification disputing the determination that a compliance breach has occurred with accompanying evidence in support of that assertion; and/or
- 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.

Failure to respond to the Notice or make progress towards the breach in the time stated in the Corrective Action Plan may escalate the severity of this situation and require additional action by the Commission. For more information, please see the Intervention Protocol, Exhibit D of the Charter Contract.

Thank you very much for your attention to this matter. The Commission looks forward to the speedy resolution of this matter. As determined by the response submitted by **December 4, 2017**, Commission staff will contact you via email when this Notice has been satisfactorily resolved.

Best regards,

A handwritten signature in black ink, appearing to read "Sione Thompson". The signature is fluid and cursive, with the first name "Sione" being more prominent.

Sione Thompson  
Executive Director

c: Ipo Torio, School Director, Kanuikapono Public Charter School (via email)

**Exhibit 6**

**School's Response to the November 20, 2017 Notice of Concern  
Regarding Findings in their Fiscal Year. Includes initial Corrective Action Plan**

DAVID Y. IGE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

STATE OF HAWAII  
STATE PUBLIC CHARTER SCHOOL COMMISSION  
(‘AHA KULA HO‘ĀMANA)  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

### RESPONSE TO NOTICE OF CONCERN

---

**Governing Board: Kanuikapono Public Charter School**

**Date Notice of Concern Issued: November 20, 2017**

**Issue/Compliance Breach: 2017-18 Annual Financial Audit Findings**

**Response Due By: December 4, 2017**

---

On behalf of Kanuikapono Public Charter School, I, Cecilia Dawson as its governing board chair, hereby affirm (**check one option** and attach requested information):

- ☐ That we have resolved the compliance breach by doing the following: (describe the actions taken to resolve/remedy the issue, attach additional documentation if necessary) and I have attached evidence of the completion of/compliance with the issue stated in the Notice of Concern.
- ☐ That we dispute the determination that a compliance breach has occurred, and have attached evidence in support of that assertion (may attach additional documentation if necessary). We understand that by disputing this Notice of Concern that the matter will be decided by the Commission at the next General Business meeting should Commission staff decide to maintain that there was a compliance breach.
- ☒ That we are submitting a Corrective Action Plan that is designed to remedy the compliance breach, which include timelines and persons responsible for each action within the plan. I understand that if the submitted Corrective Action Plan is not mutually agreeable to both our Charter School and the Commission staff, the matter will be brought to the Commission for determination at the next General Business Meeting. We also understand that the Commission shall be updated on the issuance, remedy, and progress towards implementation of our approved corrective action plan in the Executive Director's Report during the Commission's General Business Meetings.

Use this space to:

- Describe the actions taken to resolve/remedy the issue;
- Dispute the determination a compliance breach has occurred; or
- Provide the corrective action plan that is designed to remedy the compliance breach, which include timelines and persons responsible for each action within the plan.

Click or tap here to enter text.

Kanuikapono has retained the services of Pu‘uwai Hemolele to review the school’s Financial Management, Human Resources Management, and Purchase Management. Pu‘uwai Hemolele will assist the school with addressing the identified *Material Weakness* to implement procedures to properly record transactions before its records are submitted for audit and improve control over the expenditure transaction cycle. Additionally, Pu‘uwai Hemolele will address the *Significant Deficiency* in the school’s internal control matters related to payroll. Pu‘uwai Hemolele will work closely with school’s bookkeeper and payroll service provider, the school’s leadership, and support staff to strengthen the school’s human resources management policy, procedures, and personnel file management.

The school anticipates resolution to the concerns identified in the audit no later than Jan 31, 2018.



Signature of GB Chair

12/4/2017

Date

**Exhibit 7**

**School's June 8, 2018 Corrective Action Plan Implementation Update  
Regarding Deficiencies and Weaknesses Identified in the Financial Audit**



P.O. Box 12 Anahola, HI 96703  
 4333 Kukuihale Road  
 Anahola, HI 96703  
 (808) 823-9160

June 8, 2018

Aloha Sione,

The Governing Board has reviewed the Notice of Concern you issued to Kanuikapono on November 20, 2017 and has deemed all matters pertaining to the NOC resolved. Please see a summary of actions that we have taken to address the concern.

### **Material Weakness:**

Statements of Condition – During the course of the audit, we proposed journal entries to record or adjust certain accounting transactions. The material adjustments proposed included adjustments to assets, liabilities, revenues, and operating expenses. The School did not identify and make the necessary adjustments to the financial statements before the audit began, thus the financial statements were materially misstated before the audit began. Based on professional standards, identification by an auditor of a material misstatement in the financial statements under audit that was not initially identified by the entity's internal control is a strong indicator of a material weakness. In addition, we noted the following:

- Checks were back dated affecting completed bank reconciliations.
- Inadequate supporting documentation for some transactions tested and three checks cleared the bank but were unsigned.

### Action Taken:

Strengthening of the school's Accounts Payable and Accounts Receivable procedures and processes to ensure alignment with standard accounting best practices.

- QuickBooks online conversion
- Strengthened the check writing procedure with additional oversight.
- Implemented Bank of Hawaii BillPay to eliminate unsigned checks in the future.
- Created online accounts for credit cards and linked them to our QuickBooks online account to ensure timely reconciliation, accurate postings, and proper support documentation
- Upgraded Quickbooks so that all transactions have supporting documents and approval attached
- Streamlined Accounts Receivables and Accounts Payable submittal process for accuracy, effectiveness, and timeliness.
- Upgrade to QuickBooks allows for in-house active management of the data entry, check processing, bill payment and reporting.
- Identified and closed gaps in the approval processes of various transactions.
- Identified/resolved outstanding A/R and A/P debts and deposit discrepancies.

- Updated QuickBooks accounting to use the online version which provides transparent view access to our data and reports.
- Organized the QuickBooks Chart of Accounts to accurately reflect the accountability and reporting required

**Significant Deficiency:**

Statements of Condition – During our audit we noted the following internal control matters related to payroll:

- Pay rates are not consistently documented and approved in personnel file.
- Employee range and step not consistently documented on employee contract or personnel file.
- In adequate supporting documentation of differential pay in the personnel file.
- Timesheets not approved consistently.

Action Taken: Strengthening of internal controls over payroll and personnel file management.

- Reviewed the school's existing processes and procedures
- Reviewed the D.O.E. Personnel Charter School Handbook
- Consulted with various D.O.E. employees in the Personnel department and Jay Miyake (the school's auditor),
- Reorganized personnel files and made revisions to the filing system
- Adjusted the payroll distribution process to ensure confidentiality
- Form SR5 included in personnel files
- Differential pay contracts have been added to personnel files
- Employee Range and Step is documented in Bargaining Unit 5 personnel files
- Timesheets are approved with the payroll submittal process

Please call our Executive Director, Ipo Torio should you require additional information. Mahalo nui loa for your attention to this matter.

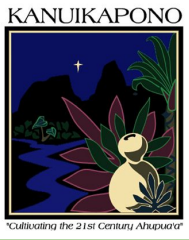
Me ka ha'aha'a,

Nalani Kaneakua  
Interim Governing Board Chair

**Exhibit 8**

**April 16, 2018 Minutes of “joint emergency meeting”**





# Kanuikapono INC-PCS

## Joint Emergency Meeting Minutes

April 16, 2018, 4:00-6:00 pm

(These minutes will be approved at the 5/2/18 Board Meeting)

### Attendees:

Nestor Figueroa, Kanu INC Chair/PCS Director  
Nalani Kaneakua, Kanu INC/PCS Director  
Kamahalo Ka'uhane, Kanu INC Director  
Ipo Torio, Kanuikapono PCS Interim Executive Director & INC CEO/Director  
Darlene M. Pa, Kanuikapono PCS Director  
Puna Dawson, Kanuikapono PCS Director (via Conference Call at (808) 652-3811)  
Kanani Aton, Kanuikapono PCS Director (via Conference Call at (808) 987-3056)  
Peggy Figueroa, Financial Consultant (via Conference Call at (808) 645-6038)  
Kathryn Smith, Kanuikapono PCS Dean of Students and Staff

## Meeting Agenda and Minutes

### 1. Discussion: Findings & State of Affairs

- a. **Governing Board Composition Compliance:** Puna Dawson resigned as Chair, Executive Session 3/29/18 Special Meeting
- b. **Governing Board Composition Compliance:** Essie Williams became Interim Chair (3/29/18), Executive Session 3/29/18 Special Meeting
- c. **Governing Board Composition Compliance:** Essie Williams resigned as Interim Chair and Director, notice received 4/2/18 via email
- d. **Governing Board Composition Compliance:** Kanu INC board by resolution nominated Nalani to become Interim Kanu PCS Board Chair
  - i. Move to confirm Nalani Kaneakua as Interim Kanu PCS Board
    1. Motion: Nestor
    2. Second by: Darlene
    3. Vote Aye: Nestor, Darlene, Kamahalo, Nalani
    4. Abstain: Puna, Ipo, Kanani
- e. **Administrative Intervention Update:** One staff member was put on suspension with pay while the Administration is initiating an investigation. Legal representation for the Board has been acquired and no further personnel action will occur without official legal recommendations. Discussion occurred between Directors Dawson and Figueroa regarding the incident that occurred in the front office on the day of the "lock-out".
- f. **Notice of Concern, Financial Audit**
  - i. **Reconciliation of INC-PCS Nakoa and KS Accounts, ED credit card charges, and ED reimbursements** - all transactions occurring from January 2016 - present have been reconciled and balanced for both PCS and INC. All monies and receipts have been appropriately accounted for and a full report will be presented at the next regular Governing Board

## EXHIBIT 2

meeting. The back-up documentation and detailed reports are available for review upon request.

- ii. **Reconciliation of Chart of Accounts** is 80% complete. A full report will be provided to the board at the next regular board meeting.
- iii. **Personnel** - Files have been audited for required forms and information. Need adjustments to address deficiency in HR intake processes, personnel file management, and employee data will be resolved before the employee hiring and intake process begins for next school year.

## 2. Introduce the New Organizational Structure of Kanu I Ka Pono Learning Center

- a. Kanu I Ka Pono Learning Center (Kanu INC) to serve as umbrella organization.
- b. Proposed Long Term - New Organizational Structure Document
  - i. Kanu I Ka Pono Learning Center Organizational Chart:
    - 1. [https://docs.google.com/drawings/d/1Y4F\\_5T6pt8t0Hqn1IUdLqSdUhoYhxttiAEqFPUSF5PU/edit?usp=sharing](https://docs.google.com/drawings/d/1Y4F_5T6pt8t0Hqn1IUdLqSdUhoYhxttiAEqFPUSF5PU/edit?usp=sharing)
    - 2. Ho'okāko'o Organizational Chart for reference:
      - a. <https://drive.google.com/open?id=0BzuO8o6cNJ-ERFZqWnhRb1NxbU9Mb3oxM2t0TVJiYjJodzBj>
      - b. Questions, comments. Nestor proposed an option with INC as an umbrella, the proposed structure is already being used by Ho'okāko'o. Ipo stated that the current INC-PCS is still an option as well. Director Dawson, feels that this is great conceptually, but moving too fast.
      - c. Move to accept new organizational structure
        - i. Motion by Darlene to accept the new proposed structure.
        - ii. Second: Kamahalo
        - iii. Vote Aye: Darlene, Kamahalo, Nalani, Nestor
        - iv. Abstain: Ipo, Puna, Kanani
- c. Move to dissolve Kanuikapono PCS Governing Board
  - i. Motion: Nalani
  - ii. Second: Darlene
  - iii. Vote Aye: Nalani, Darlene, Kamahalo, Nestor
  - iv. Abstain: Puna, Ipo, Kanani
- d. Move to nominate Darlene Pa to be a Kanu INC Board member
  - i. Motion: Nestor
  - ii. Second: Nalani
  - iii. Vote Aye: Unanimous
- e. Move to nominate Kanani Aton to be a Kanu INC Board member effective 6/1/18
  - i. Motion: Nestor
  - ii. Second: Darlene
  - iii. Vote Aye: Unanimous
- f. Move to nominate Nalani Kaneakua to be reinstated as a Kanu INC Board member
  - i. Motion: Kamahalo
  - ii. Second: Darlene Pa
  - iii. Vote Aye: Unanimous
- g. Establish Interim School Governing Board

## EXHIBIT 2

- i. Move that the INC Board (now including 3 previous PCS Governing Board members) serve as interim Governing Board.
    - ii. Motion: Darlene
    - iii. Second: Nestor
    - iv. Vote Aye: Nalani, Kamahalo, Darlene, Nestor
    - v. Abstain: Ipo, Kanani
  - h. Establish Interim School Governing Board Executive Officers
    - i. Move that Nalani Kaneakua serve as Interim Governing Board Chair and Darlene serve as Interim Secretary
    - ii. Motion: Ipo
    - iii. Second: Nestor
    - iv. Vote Aye: Unanimous
3. **Next Board Meeting** - Wed, May 2 2018 5:00pm
- a. Review and approve revised By-laws (to include recommendation regarding exemption vs. preference for siblings policy)
  - b. Review candidates for Governing Board of Directors
  - c. Report from Financial Consultant
  - d. Administrative Intervention update
  - e. Lottery Update
  - f. Budget and Staffing Plan for SY 18-19 - Discussion
  - g. Leadership Transition Plan for SY 18-19 - Discussion
  - h. Set Board meeting calendar and dates for Board Training and Planning
  - i. Executive Director to finalize agenda, send out meeting notice, and update Governing Board page on School Google Site.