NEIL ABERCROMBIE
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RECOMMENDATION SUBMITTAL

DATE: September 11, 2014

TO: Catherine Payne, Chairperson
State Public Charter School Commission

FROM: Catherine Payne, Chairperson
Performance and Accountability Committee

AGENDA ITEM: Action on Commission's Guidance on Review and Approval of Charter Schools' Admissions and Enrollment Policies

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I. DESCRIPTION

Recommendation on Commission guidance as to charter school admission and enrollment policies.

II. AUTHORITY

Pursuant to §302D-34(b), Hawaii Revised Statutes ("HRS") (2014):

> "(b) A start-up charter school:
>
> (1) Shall be open to any student residing in the State; who is entitled to attend a department school;
>
> (2) Shall enroll all students who submit an application, unless the number of students who submit an application exceeds the capacity of a program, class, grade level, or building;
>
> (3) Shall select students through a public lottery if, as described in paragraph (2), capacity is insufficient to enroll all students who have submitted a timely application;

(4) May give an enrollment preference to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the charter school's application and as approved by the charter school's authorizer;

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

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

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

Section 5.2 of the State Public Charter School Contract ("Charter Contract") states, in part, "[t]he School shall comply with its admission policies and procedures approved by the Commission[.] These policies and procedures shall be readily accessible from the School's website[.]"

III. BACKGROUND

At the Commissions August 14, 2014 General Business Meeting, staff presented an update on the preparation for the Commission's review of admissions and enrollment policies and reviewed the timeline for staff's communications and work with the schools and the Commission's review and approval of school policies and practices. One of the initial forms of communication was two webinars that staff conducted for school leaders to review the upcoming process, discuss some legal and policy considerations about admission and enrollment policies and practices, and solicit school input about some current policies and practices. Appended as **Exhibit A** is the handout that was distributed for these webinars.

Enrollment Preferences

The next task on the timeline is the Commission's review of certain identified admission practices and enrollment. As noted in previous submittals, two enrollment preferences are expressly permitted by statute: 1) students who are already enrolled in the school; and 2) siblings of students already enrolled. State law allows other enrollment preferences that are consistent with the requirement that charter schools be open to any student residing in the State who is entitled to attend public school and that follow general non-discriminatory practices, but, reflecting the importance of this policy issue, any such enrollment preference must be approved by the Commission.

When staff reviewed admission and enrollment policies for the Preliminary Organizational Performance Assessment, it became apparent that many schools' policies provided for an enrollment preference for children of school employees. This preference, while prevalent, has not been approved by the Commission.

Staff has reviewed the National Alliance for Public Charter Schools' Model Law for Charter Schools ("National Alliance Model Law"), which includes all of the following elements:

1. Open enrollment to any student in the state;
2. Lottery requirements;
3. Required enrollment preferences for previously enrolled students within conversions, prior year students within charter schools, and siblings of enrolled students at a charter school; and
4. Optional enrollment preference for children of a school's founders, governing board members, and full-time employees, not exceeding 10% of the school's total student population.

In addition, staff reviewed how other states handled the enrollment preference of children of full-time employees and governing board members. The majority of states, approximately 19, do not have an enrollment preference for children of full-time employees. While only three states (Maine, Mississippi, and Rhode Island) follow the National Alliance Model Law and allow for the preference capped at 10%, five states (Arizona, Georgia, Michigan, Minnesota, and Utah) allow an uncapped preference. Several states allow for a capped enrollment preference at different percentages: Delaware (5%); North Carolina (15%); South Carolina (20%); and Texas (unspecified, except that it must be low). In addition, three states and the District of Columbia allow the enrollment preference only for the children of founders of the school.

In the Committee meeting, Commissioners asked whether weighting the lottery (*i.e.*, providing a student more chances, as opposed to automatic acceptance) was an acceptable approach. Staff responded that the Commission had previously allowed an enrollment preference for Kanuikapono PCS that featured a weighted lottery system. However, the recommendation for Kanuikapono's enrollment preference was only given following extensive research by staff which included demographic mapping and consultation with the Attorney General. Such an approach can be a consideration in the overall evaluation of a preference.

Another question was whether there was a sense of how many schools would utilize a 10% enrollment preference on a consistent basis. Staff responded that information had not been collected, but that a good number of schools already have an enrollment preference for children of employees. The recommendation to limit the enrollment preference to children of full-time employees and not include governing board members was based on these admission and enrollment policies that expressly provided the preference only for children of employees. Schools still would be free to request Commission approval of other preferences; the recommendation was just that only this preference for full-time employees be given advance approval.

Admission and Enrollment Practices

Apart from illegal practices, there are instances where a school's admission and enrollment policies and practices may not be illegal but still run counter to the spirit and intent of the charter school law, which emphasizes that public charter schools are open to any student residing in the State and generally requires charter schools to enroll all students who complete an application unless the number of students applying exceed the capacity of the school.

As detailed in the August 14, 2014 update to the Commission, some admission and enrollment practices caused concern as they create barriers to enrollment that could discourage and, in extreme cases, prevent a student from enrolling in a charter school. One practice that is currently prevalent among Hawaii charter schools' is enrollment processes that require submission of interviews, tests, essays, past academic performance, or letters of reference. This creates the impression that schools are screening and selecting students based on ability and past performance.

During the admission process, some schools are requiring prospective students and parents to:

- Submit report cards, transcripts, previous test scores, and examples of past work;
- Complete applications that include essay questions such as, "Please explain how your child learns best," or "Share concerns or obstacles that need to be addressed," and "Explain how you will support the school;"
- Submit letters of reference from former teachers, coaches, or community members; and
- Attend a mandatory interview (as opposed to a general informational session) with school administrators and staff.

In the Committee's discussion on these practices, Commissioners asked how these practices affected both the schools and prospective students in regards to the provision of special education services. The question was whether schools were able to get a sense of a special education student's needs before accepting the student and then finding out the school was unable to provide the services the student needs. Staff said that there is a strict process that schools must follow before a determination of what services can and cannot be provided is made. Where this is problematic for admission and enrollment practices is when it may be perceived that the school is discouraging a special education student from applying by suggesting up front that it may not be able to meet the student's needs.

During the discussion, staff also mentioned that schools could view the admission and enrollment periods as two distinct, separate processes. In the admissions cycle, the practices of requesting interviews, tests, essays, past academic performance, or letters of reference would be prohibited. But in the enrollment cycle, where the child already has been selected to join the school, schools would be able to request some of the above information, as these practices could no longer be considered a barrier to enrollment.

IV. DECISION MAKING STATEMENT

Enrollment Preferences

The National Alliance Model Law recommends that an enrollment preference for children of a charter school's full-time employees be permitted. The rationale is that "since these individuals devote much of their energies into operating public charter schools, it is reasonable to allow a limited percentage of available seats to be reserved." As previously mentioned, a number of Hawaii charter schools already contain an enrollment preference for children of staff.

Rather than require each school to come to the Commission individually, the Committee proposes the Commission categorically approve an enrollment preference for children of full-time employees that would be capped at 10% of the total student enrollment. Full-time employees are teachers (on 10 or 12 month contracts), administrators, and staff who are in positions classified as 100% FTE (Full-time Equivalent) and not temporary or transitional staff, such as 89-day hires, substitutes, or volunteers. In instances where the 10% cap would be exceeded, the school would be required to obtain the Commission's review and approval of the individual preference on a case-by-case basis.

Admission and Enrollment Practices

State law mandates that charter schools are open to any student residing in the State and that charter schools are required to enroll all students that complete an application unless the number of students applying exceed the capacity of the school. Even if charter schools are requesting information such as report cards and letters of reference to gain an understanding of the prospective student, requesting this information in advance during the admissions period may convey an impression that the school is screening and selecting higher-performing students. This creates a barrier to enrollment as students and parents are pressured to "do well and provide the right answer" on any essay questions and in interviews. In addition, there are civil rights concerns for non-English speakers who may not be able to adequately answer application essay questions or complete an interview.

To discourage schools from continuing to utilize admission and enrollment practices that create barriers to enrollment, the Committee recommends the Commission make clear in advance that admission and enrollment policies that make acceptance of a student contingent on submittal of interviews, tests, essays, past academic performance, and other personal information will not be approved by the Commission. This clarification will serve to alert charter schools that the Commission will uphold the premise that charter schools are schools of choice and open to all students in the State.

V. RECOMMENDATION

Recommended motion:

"Moved that the Commission categorically allow an enrollment preference for the children of full-time employees, provided that the number of students utilizing this preference not exceed 10% of the total student population. Situations in which the percentage exceeds 10% of the total student population shall be reviewed and approved or denied by the Commission on a case-by-case basis."

"Moved that the Commission inform charter schools that admission and enrollment policies that make acceptance of a student contingent on submittal of interviews, tests, essays, past academic performance, and letters of reference will not be approved by the Commission."

Exhibit A

Handout on the August 21 & 22, 2014, Presentation on Admissions and Enrollment Policies

Public Charter School Admission and Enrollment Policies and Practices

Informational webinar for charter school leaders

August 21 & 22, 2014

State Public Charter School Commission
('Aha Kula Ho'āmana)

Public schools and Schools of Choice

- Schools of choice for students and their families
  - (Though conversion is default schools for service area)
- Charter schools have unique missions and educational themes and approaches that may not be ideal for every student
- Schools may wish to be "up front" with families
- But they're "public charter schools" – the promise of public education is universal access

Overview

- Background on this issue in recent years in Hawaii
- Review and approval process: Governing boards and Commission
- Some red flags or issues in policies and practices
- Specific issues related to enrollment preferences
- Some tips and suggestions
- Feedback and questions
- Resources

Background

- Charter contract 1.0 was to have included school's admission and enrollment policies in Exhibit A
  - So fundamental to being a public school
- Because of significant issues, dropped for now
- Contract 1.0 merely required that policies be submitted
- But Hawaii charter law requires that almost any enrollment preferences have Commission approval
- Issues have been raised by other stakeholders
- Some schools already have had to revise policies
- Contract 2.0 (Section 5) requires Commission approval

Roles and Responsibilities

Charter Schools

- Open to any student residing in the State entitled to attend DOE school
- Enroll all, up to capacity
- Use public lottery if applications exceed capacity
- Conversion schools serve geographic service area
- Post Admissions and Enrollment policy on website

Commission

- Approve any enrollment preference except already enrolled students and siblings
- Review and approve charter school admission and enrollment policies

What Commission Will Be Considering

1. Whether the policies and practices comply with state and federal law;
2. Whether the policies and practices are acceptable as a matter of public education policy; and
3. Whether the school must amend or may want to consider amending a policy or practice and/or clarify its intent

Timeline

- **Now through Aug. 28, 2014:** Webinars, school feedback, staff recommends some guidelines to schools on certain acceptable and unacceptable policies and practices, at Aug. 28 Performance and Accountability Committee meeting.
- **Sept. 11, 2014:** Commission adopts guidelines.
- **Oct. 31, 2014:** Deadline for schools to submit current admissions and enrollment policies and procedures to the Commission. Schools that have already submitted these and do not wish to revise them can simply indicate this in Epicenter.
- **Now-Dec. 11, 2014:** Schools whose policies raise potential issues or concerns can work with staff to address them.
- **Nov. 2014-Jan. 2015:** Performance and Accountability Committee (Dec. 11, 2014) and full Commission (Jan. 8, 2015) to review and approve admissions and enrollment policies.

Issues in Admissions and Enrollment Policies, Procedures, and Practices

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The key issue: Barriers to enrollment

- Please explain how your child learns best.
- Which areas do you want to improve in?
- Explain how you will support the school.
- Share some of your concerns or obstacles that we need to address.

ESSAY QUESTIONS & INTERVIEWS

- Screening and selecting students
- Puts pressure on parents and students to "do well"
- Non-English speakers

- Report Cards/Transcripts
- Birth Certificates
- Examples of student writing/work
- Letters of Reference from Former Teachers
- Previous Test Scores
- Family Income Information
- Student Test Prior to Acceptance

ITEMS REQUESTED WITH THE APPLICATION

Screening and selecting students

- What will be done to strengthen Hawaiian language in your ohana?
- Preference for Hawaiian-speaking students
- Interviews/tests to determine Hawaiian language proficiency

HAWAIIAN LANGUAGE REQUIREMENTS

"Every student within the State of Hawai'i's public school system should have reasonable access to the Kaiapuni Educational Program."- BOE Policy 2105

Limiting learning opportunities

Special Education

It is the DOE's responsibility to provide FAPE (Free And Appropriate Education) to all students of the State of Hawaii. Current policies and practices deny charter schools the same funding/ services that are provided to other public schools. Parents must disclose whether the student is receiving special educational services (IDEA) or 504 services, and/ or has ever been tested for special education or 504. Parents must provide a copy of their child's Individualized Education Plan (IEP) or modification plan at the time of application.

DENIED

Special Education

- Individualized Education Program (IEP)
- Section 504 Plan
- Received SPED services in the past
- Existing physical or mental disabilities
- Statements saying the school may not be able to provide FAPE

If your child has an Individualized Education Program (IEP) or 504 Plan, please inform the school upon acceptance so a transitional meeting can be coordinated as soon as possible.

Other Possible Issues

- Provisional acceptance and/or Probationary periods
- Requirement for parents to volunteer at the school, with no exceptions for special circumstances
- Requirement to follow the mission/culture of the school (implicitly grounds for expulsion)
- Research participation release forms
- Payment of fees and/or Past obligations
- Issues with online applications

There generally is only one reason a charter school should not accept a student who applies…

Section 302D-34(b)(2) HRS

You have no more space at your school

ENROLLMENT PREFERENCES

What State Law Says

- Admission shall not be limited based on race, color, ethnicity, national origin, religion, gender, sexual orientation, income level, disability, level of proficiency in the English language, need for special education services, or academic or athletic ability
- State law categorically allows two enrollment preferences:
  1. Students enrolled the previous year
  2. Siblings of students already enrolled
- Any other enrollment preference must have Commission approval

Approval Process

- (This would be for when a new enrollment preference proposed after the overall review process)
- Governing board requests approval of preference and provides information on why it is proposed
- Request is reviewed by staff, and possibly with Attorney General
- Review of staff recommendation by Commission's Performance & Accountability Committee
- Committee makes recommendation to full Commission
- Commission approves or denies request
- If approved, the governing board can adopt the preference

Children of Staff and Governing Board Members

Charter Schools

- Many schools currently have this enrollment preference
- Not specified in statute

Commission

Favoritism in schools funded with public dollars

- Allow an "across-the-board" enrollment preference
- Percentage cap
- Additional ballots "in the hat"

Geographic Preference

Charter Schools

- Place-based learning
- Commitment to serve the community and area
- Preserve the culture and history of a certain area

Commission

Inadvertent racial and/or socio-economic preference

- Percentage cap
- Additional ballots "in the hat"

Socio-economic Preference

Charter Schools

- Commitment to meet the need of socio-economically disadvantaged students and families
- Desire to achieve and maintain socio-economic diversity/balance in student population

Commission

Hawaii charter law currently includes income level as prohibited basis for admission decisions

- Note: confusion over federal policy
- Possible statutory revision

Other Preferences

- Language-related:
  - Hawaiian language ability for Hawaiian language school
- Preferences designed to achieve composition of student population for other purposes, such as diversity
- Others?

Tips & Suggestions

- Ask: Are our admission and enrollment policies and procedures transparent and easily understood?
- Ask: Could this policy or practice potentially deter some families from applying or pose a barrier to enrollment?
- Ask: Do we really need this information before enrolling a student? Is there any reason we can't get the information after he or she is enrolled?

Feedback and Questions

?

- Can also follow up later:

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Resources

- Recording of this webinar will be available on Commission website, along with related materials:
  - Aug. 14, 2014 update to Commission by Committee on Performance & Accountability
  - "Special Report: Class Struggle – How Charter Schools Get Students They Want," Reuters, February 15, 2013
  - Section 302D-34, Hawaii Revised Statutes
  - Section 5 of the Charter Contract
- Go to www.charitercommission.hawaii.gov
  - Click on "For Schools"
  - Click on "Organizational Performance"