

NEIL ABERCROMBIE
GOVERNOR



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RECOMMENDATION SUBMITTAL

DATE: April 10, 2014
TO: Catherine Payne, Chairperson
FROM: Tom Hutton, Executive Director
AGENDA ITEM: Action on Length of Terms of the State Public Charter School Contract

I. DESCRIPTION

Recommendation that the Commission approve guidelines for length of terms of the State Public Charter School Contract (“Charter Contract”).

II. AUTHORITY

Contract Revisions: Pursuant to Hawaii Revised Statutes (“HRS”) §302D-3, “[a]ny charter school holding a charter to operate under Part IV, subpart D, of chapter 302A, as that subpart existed before July 11, 2006, and any charter school holding a charter to operate under chapter 302B as it existed before June 19, 2012, shall be considered a charter school for the purposes of this chapter under a charter contract with the commission unless the charter contract is revoked, transferred to another authorizer, or not renewed, or the charter school voluntarily closes.”

Contract Terms: Pursuant to HRS §302D-18 (a), “A charter contract may be renewed for successive five-year terms of duration, although an authorizer may vary the terms based on the performance, demonstrated capacities, and particular circumstances of each school.”

Charter Renewal: Pursuant to the Charter Contract, Section 13.1, “[t]he Parties agree that this Contract, upon its expiration, will not be subject to the renewal process pursuant to Sec. 302D-18, HRS. The Parties agree that, upon expiration of this Contract term, they intend to execute a new charter contract for a subsequent term to be determined by the Commission.”

III. BACKGROUND

At the March 14, 2013 Commission General Business Meeting, the Commission adopted the Charter Contract template. The Commission's accountability system is incorporated into the Charter Contract through three Performance Frameworks: Academic, Financial, and Organizational (collectively, the "Performance Frameworks").

Last summer, all thirty-three of Hawaii's charter schools signed one-year contracts with the Commission. These contracts will expire on June 30, 2014. The 2013-14 contract stipulates that contract renewal will not be based upon the process outlined in HRS §302D-18 but instead will be determined by the Commission. Subsequent contracts will follow the full contract renewal process outlined in HRS §302D-18, which is based in part on school performance. The Commission's administrative rules relating to renewal are going through the approval process; currently the administrative rules are being submitted to the Governor's office along with a request for public hearings.

Both the Financial and Organizational Frameworks were approved by the Commission at its March 14, 2013 General Business Meeting. On December 5, 2013, the Commission issued financial performance summaries of each school based on the Financial Performance Framework in its Annual Report. Schools were also provided an opportunity to respond to the preliminary ratings before final ratings were issued.

In addition, schools submitted information for a preliminary assessment on the Organizational Performance Framework. Schools received their preliminary assessments on January 24, 2014, and then had an opportunity to submit additional material by February 21, 2014.

The Academic Performance Framework was not in place when contracts were signed in the summer of 2013. The Academic Performance Framework is near completion and is scheduled to be approved by the Commission by May 2014.

At the Commission's February 27, 2014 Performance and Accountability Committee meeting, staff presented three options for setting the term length of the Charter Contracts: (1) variable terms based on performance; (2) a three-year contract with an option for extension; and (3) a three-year contract with differentiated renewal. Preliminarily, staff recommended option 2 or 3 but asked that the Committee defer taking action on the agenda item because it was still conducting research and working on the details of each option. The Committee deferred action at its February meeting.

At the Commission's March 27, 2014 Performance and Accountability Committee meeting, staff presented the recommendation described in the Decision Making Statement below. The Committee lacked a quorum, so it was unable to take action on the motion to make a committee recommendation to the Commission. The discussion at Committee, however, was generally in favor of staff's recommendation. Staff has brought the item directly to the Commission as a separate agenda item for today's General Business Meeting.

DECISION MAKING STATEMENT

The Commission is responsible for evaluating charter school performance and for making decisions about whether to renew a school's charter contract. The contract includes three Performance

Frameworks—Academic, Organizational, and Financial—that establish the criteria that will be used for charter renewal.

Some schools have expressed an interest in having accreditation from the Western Association of Schools and Colleges (“WASC”) affect charter contract terms. WASC accreditation can be up to six years, and some schools would like their contract terms to also extend up to six years. Staff has been in communication with WASC to discuss ways in which WASC accreditation can inform the performance frameworks, which staff believes has better potential as a way of considering accreditation status than attempting to tie it somehow to contract terms. In addition, state law precludes contract terms from extending beyond five years.

Staff has discussed and researched guidelines and different approaches for establishing contract terms both internally and with the National Association for Charter School Authorizers (“NACSA”). These options are summarized here:

Option 1. Variable Terms Based on Current Performance

The Commission could elect to assign variable term lengths to schools based on existing performance measures. Staff already has some performance information from the organizational and financial performance frameworks. Despite the fact that the Academic Performance Framework has not been finalized at this time, the Commission could retroactively apply the Academic Performance Framework once it is adopted in order to inform contract terms, could adopt other academic measures to help make this determination, or it could base contract terms on organizational and financial performance only.

Option 2. Three-Year Contract with Option for Extension

There are other approaches to contract renewal that would delay the use of performance criteria. One option is that the Commission could enter into three-year contract terms with all thirty-four schools, with an automatic two-year extension for qualifying schools. Staff would determine criteria based on the performance frameworks for the automatic two-year extensions, and these schools would not need to go through the contract renewal process. Schools that did not qualify for the automatic two-year extension would undergo the contract renewal process described in law and administrative rule. The renewal process for those schools might lead to renewal of contracts anywhere from one to five years, or could result in non-renewal.

Option 3: Three-Year Contract with Differentiated Renewal

This approach is similar to Option 2. All schools would enter into three-year contracts beginning in July 2014. Schools would all go through the renewal process during the same time period; however, under this proposal that renewal process actually would differ for schools based on individual performance. A school that demonstrated exemplary performance on all three frameworks would face a less rigorous renewal process than a school that struggled more on the performance frameworks.

After further discussion and research, staff recommended Option 2: All charter schools would enter into a three-year contract term beginning July 1, 2014, and schools that meet exemplary performance (to be determined later but to be based on performance frameworks) would receive an automatic two-year extension of their contracts. This approach provides all schools with equal initial contract terms, at least until 2017, and avoids the complications that would arise if the Commission attempted to

differentiate terms this year based on a retroactive application of the Academic Performance Framework.

Option 2 also allows the Commission and the schools alike to gain more experience with all three performance frameworks before the Commission establishes charter renewal guidance. NACSA's *Principles and Standards for Quality Charter School Authorizers*¹ states that "a quality authorizer designs and implements a transparent and rigorous process that uses comprehensive and reliable data to inform merit-based decisions." Staff believes that Option 2 promotes rigor and transparency by allowing schools to be evaluated on all three frameworks during the 2014-15 school year before the renewal criteria will be established. This will also allow for slight modifications, if needed, to the performance frameworks.

Finally, this approach will avoid the administrative burden on Commission staff of having all thirty-four (or more) schools go through the same renewal process at the same time.

There is one potential drawback to Option 2. As an example, assume School A has done well on all three frameworks and receives an automatic extension; School A's contract will now expire in 2019. School B has struggled on the frameworks and undergoes the full contract renewal process in 2016-17. School B could then hypothetically receive a five-year contract. The resulting irony is that School B could now have a contract that expires later than School A's. Of course, School B would have had to go through the renewal process, which School A would have bypassed. In addition, when School A comes up for renewal in 2019, it, too, would be eligible for a five-year contract. Furthermore, when School B is up for renewal in 2017, the Commission could determine the length of the contract, which could be between one and five years.

Schools have already received information regarding their performance on the organizational and financial performance frameworks. The final Academic Performance Framework up for approval at today's meeting. Moreover, the Academic Performance Framework is more time-dependent than the other two frameworks, due to its integration with the Strive HI State Accountability System ("Strive HI"). A Strive HI report typically comes out in August but is based on data from the previous school year.

The following offers a **potential** timeline for contract renewal under Option 2. These timelines do not need to be approved at this point.

Hypothetical Timeline Under Option 2

Early Spring 2016: The Commission approves criteria that will determine which schools receive automatic two-year extensions. The Commission also approves the charter renewal application and decision criteria for the renewal process. By this point, schools will have already received information on their performance on all three Performance Frameworks.

¹ Available at www.qualitycharters.org.

² Current law requires authorizers to issue charter school performance reports and renewal application guidance "to any charter school whose charter contract will expire the following year." Proposed legislation would change the language to read "The authorizer shall issue a charter school performance report and charter contract renewal application guidance, by December 31, to any charter school whose charter contract [will expire the following

Spring 2016: Commission holds orientation to discuss renewal process with school leaders and governing board directors.

September 2016: Preliminary school-specific reports are issued to schools based on the Performance Frameworks.² Assuming Strive HI information is available by September, the reports include academic performance data from the 2015-16 school year. Schools that have demonstrated exemplary performance are notified of their automatic two-year extension. All schools have a chance to comment on the performance report and offer corrections or additional data to supplement the record.

December 1, 2016: Tentative deadline for schools to submit their renewal applications.

January 15, 2017: Commission staff issues renewal recommendations and holds public hearings.

February 28, 2017: Deadline by which Commission makes renewal decisions and communicates decisions to stakeholders.

IV. RECOMMENDATION

“Moved that when determining the length of terms for the State Public Charter School Contract, effective as of July 1, 2014, that the Commission approve contract terms of three years for all schools, beginning July 1, 2014, and schools that meet exemplary performance (to be determined later but to be based on performance frameworks) receive an automatic two-year extension on their contract.”

² Current law requires authorizers to issue charter school performance reports and renewal application guidance “to any charter school whose charter contract will expire the following year.” Proposed legislation would change the language to read “The authorizer shall issue a charter school performance report and charter contract renewal application guidance, by December 31, to any charter school whose charter contract [will expire the following year.] is in its final contract year.”