August 13, 2015

Catherine Payne, Chairperson
Hawaii State Public Charter School Commission
1111 Bishop Street, Suite 516
Honolulu, HI 96813

Chairperson Payne and members of the Hawaii State Public Charter School Commission:

The proposed Charter Contract Renewal Criteria and Process does not follow the process mandated by Hawaii Administrative Rules, Title 8, Subtitle 5, Chapter 505. The contracts for all charter schools expire next year and the Commission has not provided a charter contract renewal application form to us as required by §8-505-11. This form must "include a description of the renewal application process, the renewal application processing schedule, and the policies, criteria, or guidelines described in subsection (b)."

Subsection (b) requires evaluation criteria to be "based on the charter contract and consistent with chapter 302D, Hawaii Revised Statutes." The law (§302D-18) calls for the authorizer issuing a "charter school performance report and charter contract renewal application guidance" to the schools. The proposed process makes no reference to the required "charter contract renewal application guidance." Our current contract, in the very first section (1.1) says, "provided that if the School demonstrates exemplary performance, as determined by the Commission, on the Performance Frameworks under Section 4.1, it shall be granted a two-year extension through June 30, 2019." The proposed process says, "Rather than receiving a two-year extension of their current contracts, as previously planned, exemplary schools will automatically be eligible for a new five-year contract." Was the current contract amended? If so, the process used violates Section 14.2 of the contract.

Manipulations of the law have had a major impact on the working relationship between charter schools and the Commission staff. We were forced to sign the first contract with the Hawaii Charter School Commission by a budget proviso that would have eliminated 60% of a school's per pupil funding if the school refused to sign. Section 13.1 forced us to agree to the use of a process for contract renewal that was not consistent with the law (§302D-18). The process that was followed exempting the Commission from following the law was never communicated to the schools. We asked the Attorney General's office for an opinion regarding this matter. The response was, "You may want to ask the Commission what the intent is with the language... if the intent is to eliminate due process rights of charter schools, this goes more to substance. This point should be clarified with the Commission, because charter schools should not be made to waive substantive due process rights they are entitled to under 302D-18." Charter schools were again forced to sign the second contract without the ability to negotiate as defined in §302D-5. Many signed under duress.

According to §302D-1 charter schools are defined as having "the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management." More than three-fourths of charter schools in Hawaii have been in existence for 10 years or more. Seventy-one percent have been serving Hawaii families for 15 years. The lack of trust between the Commission staff and the schools makes it difficult for many of us to believe that (according to §302D-3) "the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools." The same section of the law says, "each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such."

The founders of the first 25 charter schools in Hawaii were truly committed to the original legislative intent for our schools. The preamble of Act 62 said, "The legislature finds that as long as a public school complies with the requirements that it be free to all attending students, that its admissions policies be nondiscriminatory, and that it comply with statewide performance standards, a school should otherwise be free from statutory and regulatory requirements that tend to inhibit or restrict a school's ability to make decisions relating to the provision of educational services to the students attending the school. To nurture the ideal of more autonomous and flexible decision-making at the school level, the legislature supports the concept of new century charter schools. The legislature finds that this concept defines a new approach to education that is free of bureaucratic red tape and accommodating of the individual needs of students to allow the State to dramatically improve its educational standards for the twenty-first century. Both existing public schools and new schools may be established as new century charter schools, and these schools will allow educators to better tailor the curriculum to enhance the learning of the students."

We still have time for "constructive engagement" based on our collective "knowledge of best practices." Approving the proposed Charter Contract Renewal Criteria and Process will further erode our hope for working with an authorizer that is committed to ensuring "a long-term strategic vision for Hawaii's public charter schools." Please consider extending the current contract for all charter schools an additional year to facilitate the development of a renewal process that adheres to applicable administrative rules, laws, and a spirit of collaboration. Our commitment is to our students and their families. As you said, Ms. Payne, in your Think Tech Hawaii interview, "It is all about the kids." Thank you, again, for this inspiration.

Sincerely,
John Thatcher, Connections PCS
Steve Hirakami, Hawaii Academy of Arts and Science PCS
Alvin Parker, Ka Waihona o ka Naʻauao PCS
Kamakaopiopiowiwo'ole Gunderson, Ke Ana La'ahana PCS
Ed Noh, Lanikai Elementary PCS
Diana Oshiro, Myron B. Thompson Academy
Keoni Bunag, Halau Ku Mana PCS
Hedy Sullivan, Kula Aupuni Niihau A Kahelelani Aloha PCS
Kapono Ciotti, Waialae Elementary PCS
Susan Osborne, Kua o ka Lā PCS
Leigh Fitzgerald, Hawaii Technology Academy
John Colson, Kihei PCS
Lydia Trinidad, Kualapu'u Public Conversion Charter School
Anna Winslow, Kamaile Academy PCS