

LEGISLATIVE REPORT

SUBJECT: Requesting the Board of Education (the “Board”) review its By-laws, policies, applicable administrative rules and statutes to improve the effectiveness of the educational delivery system.

REFERENCE: 2011 Senate Concurrent Resolution 79 SD 1

ACTION REQUESTED: The Legislature has requested that the Board undertake a two-year review of its By-laws and policies, as well as applicable sections of the Hawaii Revised Statutes (“HRS”) and Hawaii Administrative Rules (“HAR”) to determine if amending or reducing regulatory constraints and requirements might assist the Board, the Department of Education (the “Department”), and school administrators in creating a more effective educational delivery system.

- (1) Report of the Board's findings, including any changes made to its By-laws and policies, to the Legislature no later than twenty (20) days prior to the convening of the Regular Session of 2012; and
- (2) Report to the Legislature including any proposed legislation no later than twenty (20) days prior to the convening of the Regular Session of 2013.

DOE REPORT:
Introduction:

The collective need for a new system of governance was evident in the constitutional amendment, adopted in 2010 and the corresponding implementation of Senate Bill 8, authorizing and constituting the newly appointed Board. The Board recognizes and appreciates the significance of the change in governance and has embarked on a review of all governing laws, rules and policies affecting its own administration and the administration of those agencies which the Board oversees in order to strengthen accountability, increase efficiency and eliminate redundancy.

FINDINGS

By-Laws: The Board amended and restated its By-Laws in April 2011 to streamline its operations. The Board eliminated the statement of the duties of the Superintendent, the State Librarian and the Attorney General as these duties are already set forth in law. The amended and restated By-

Laws also reflect a consolidation of and prioritization of Board responsibilities which are reflected in the reduction of standing committees from six to four (i.e., Student Achievement, Finance and Infrastructure, Audit, and Human Resource). See attached By-Laws, Exhibit A.

Board Policies, Administrative Rules and Statutes: The Board created a Policy Audit Task Force that has begun the work of reviewing all Board policies in an effort to reduce and/or eliminate constraints on achieving student success. The Board is mindful of the fact that the Legislature has initiated work on statutory amendments aimed at creating a more efficient educational delivery system governing the Department of Education and public Charter Schools. As such, the Board's work on its policy audit will be in accord with any amendments to the respective governing statutes. Additionally, the Board will also begin to review current administrative rules in light of the proposed changes made to governing statutes.

The Board has been working with the Legislative leads on proposed amendments to HRS Chapter 302A, as well as participating in the Charter School Governance and Accountability Task Force reviewing and suggesting amendments to HRS Chapter 302B. Although both of these efforts are Legislatively initiated, the Board remains an active contributor.

FUTURE ACTIONS

Pursuant to the Legislature's request, the Board will complete this Report by providing any updates to its current actions related to proposed legislation for the 2013 Regular Session.

**BY-LAWS OF THE
HAWAII STATE BOARD OF EDUCATION**

ARTICLE I

PREAMBLE

Section 1.1 The Constitution of the State of Hawai'i provides that the State shall establish, support and control a statewide system of public schools and libraries, free from sectarian control and discrimination.

ARTICLE II

BOARD MEMBERS

Section 2.1 The Board consists of nine voting members appointed by the Governor, with the advice and consent of the Senate, in accordance with Article X, Section 2, of the Hawai'i State Constitution and Chapter 302A, Hawai'i Revised Statutes, each of whose term shall be three years, except as provided for in the initial appointment.

Section 2.2 The members of the Board shall serve without pay, but shall be entitled to reimbursement for necessary expenses, including travel and board and lodging expenses, while attending meetings of the Board or when actually engaged in business relating to the work of the Board.

Section 2.3 There shall be a student member and a military representative as provided by law.

ARTICLE III

OFFICERS AND TERM OF OFFICE

Section 3.1 The officers of the Board shall be the Chairperson and Vice Chairperson.

Section 3.2 The governor shall select the Chairperson as provided by law.

Section 3.3 The Vice Chairperson shall be elected from among and by the Board membership and shall serve as interim chairperson in the event the chairperson's seat becomes vacant. A vacancy in the office of Vice Chairperson shall be filled by the Board at the next regular or special meeting of the Board.

Section 3.4 The term of Chairperson shall be set by the Governor. The term of Vice Chairperson shall be for one (1) year, commencing immediately following the election, except that the term of the first Vice Chairperson elected shall expire on June 30, 2012.

ARTICLE IV

DUTIES OF OFFICERS AND BOARD MEMBERS

Section 4.1 Chairperson. The Board Chairperson shall call meetings of the Board and shall preside at all meetings of the full Board. The Board Chairperson shall delegate assignments and duties to other Board members, manage all matters of the Board, and perform such other duties as are incident to the office or are required by the Board or by law.

Section 4.2 Vice Chairperson. In the absence or unavailability of the Chairperson, the Vice Chairperson shall perform all of the duties of the Chairperson, and when so acting shall have all the powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson shall assist the Chairperson as the Chairperson deems necessary and shall have such powers and perform such other duties as from time to time may be prescribed by the Chairperson or the Board.

Section 4.3 Board Members. Board members shall fulfill duties and responsibilities as provided by law and delegated by the Board Chairperson and shall comply with the Code of Conduct attached hereto as Exhibit A and with Conflicts of Interest provisions provided by law.

Section 4.4 Committee Chairpersons. Committee Chairpersons shall report activities and decisions of their respective committees to the full Board and shall inform the Board Chairperson when items need to be placed on the agenda for the Board general business meeting or special meeting.

ARTICLE V

COMMITTEES

Section 5.1 Standing Committees. The Board shall have four standing committees: Audit, Finance and Infrastructure, Student Achievement, and Human Resources.

Section 5.2 Scope, Authority and Mission. The scope of authority and mission of each of the Board's standing committees shall be memorialized in a committee charter. Each charter shall be recommended for approval to the full Board by the chairperson of the respective committee.

Section 5.3 Standing Committee Members and Officers. Each Standing Committee shall have a Committee Chairperson and a Committee Vice Chairperson. The Board Chairperson shall nominate a slate of Chairperson and Vice Chairperson candidates for approval by the Board. The Board shall vote on the appointment of Standing Committee members. All Board members not appointed to a Standing Committee shall be an ad hoc member of that Standing Committee.

Section 5.4 Advisors/Consultants to Committees. Each committee may consult with or be advised by non-BOE members, as determined appropriate by the Committee Chairperson.

Section 5.5 Ad Hoc Committees. The Board Chairperson may, as circumstances warrant, authorize the creation of an ad hoc committee for a discrete and specific purpose of interest to the Board and shall appoint all members and officers of such ad hoc committee(s). The Board shall approve the charge of any ad hoc committee. Such committee may be created for a

definite time period or until its specific function has been completed, but shall not exist longer than one year from the date of authorization unless specifically authorized by its charge.

Section 5.6 Investigative Committees. The Board, as provided by law, may designate two or more Board members, but less than the number of members that would constitute a quorum of the Board, to investigate matters concerning Board business. The Board members designated by the Board are required to report their resulting findings and recommendations to the entire Board at a properly noticed meeting.

Section 5.7 Committee Reports. Committees may submit written reports in advance of any regular meeting in lieu of an oral report unless the report contains action items.

ARTICLE VI

MEETINGS OF THE BOARD

Section 6.1 General Business Meetings. The Board shall meet regularly on the first and third Tuesday of each month, provided, however that any Board general business meeting date, time, or location may be changed or canceled by the Board Chairperson, subject to statutory notice requirements.

Section 6.2 Special Meetings. The Board Chairperson may call a special meeting of the Board at any time, subject to statutory notice requirements.

Section 6.3 Committee Meetings. Excepting Audit Committee meetings, which shall meet at the call of the Board Chairperson, all committees shall meet at the discretion of the Committee Chairperson. Meetings may be held in conjunction with regular Board meetings on the first and third Tuesday of the month or at the call of the Committee Chairperson. The Committee Chairperson, with the approval of the Board Chairperson, may change or cancel any committee meeting date, time, or location, subject to statutory notice requirements.

Section 6.4 Community Meetings and Notice. The Board shall hold not less than one community meeting annually in each county in addition to regular meetings to discuss and receive input from the community on public education and public library issues. The Board Chairperson shall designate Board members to attend the community meetings. These community meetings shall not be held for the purpose of formulating educational policy. As provided by law, the community meetings shall be exempt from sections 92-2.5, 92-7, 92-9, and 92-41, Hawaii Revised Statutes; provided that the Board shall give written public notice of each community meeting indicating the date, time, and place of the meeting, and such notice shall be filed in the Office of the Lieutenant Governor and in the Board's office for public inspection six calendar days before the meeting. The notice shall also be posted at the site of the meeting.

Section 6.5 Meeting Agenda. The Agenda shall be promulgated by the Board Chairperson, with input from the Superintendent, State Librarian, Committee Chairpersons, and Board members, and shall docket items in the order received, provided that the Chairperson shall have discretion to schedule or move any item based upon such considerations as time constraints and need for immediate action. All meetings of the Board and its committees shall be held in accordance with the law.

Section 6.6 Executive Session. An affirmative vote, taken at an open meeting, of two-thirds of the Board members present shall be required to convene an executive session; provided that the affirmative vote constitutes a majority of the members to which the Board is entitled. A meeting closed to the public may be convened only as provided by law.

Section 6.7 Quorum and Voting. A majority of all the voting members to which the Board is entitled shall constitute a quorum to conduct business. At any time the Board has fewer than five voting members, three voting members of the Board shall constitute a quorum to conduct business and the concurrence of at least three voting members shall be necessary to make any action of the Board valid.

ARTICLE VII

PUBLIC TESTIMONY AND SUBMISSION OF DATA, VIEWS OR ARGUMENTS

Section 7.1 Submission of Data, Views, or Arguments. Any interested person may submit data, views, or arguments in writing to the Board on any agenda item. Said written submittals shall be considered by Board members before taking action on any agenda item. Written comments are strongly encouraged.

Section 7.2 Public Testimony. All interested persons shall be provided an opportunity to present testimony on any agenda item. An individual or representative wishing to testify should register prior to the meeting. Testimony must be related to an item that is on the agenda and such person shall be required to identify the agenda item to be addressed by the testimony. Each individual or representative of an organization is allotted two minutes, or an amount of time otherwise designated by the Chairperson, to provide testimony to the Board.

Section 7.3 Communication from the Public. Any member of the public or any organization may submit written communication to the Executive Director of the Board on any matter involving public education or the public library system. The communication shall be filed with the Board of Education and all members of the Board shall be advised of the communication.

ARTICLE VIII

AMENDMENTS TO BYLAWS

Section 8.1 Notice Regarding Proposed Amendments. These bylaws can be amended at any General Business or Special Meeting provided that previous written notice was given to all Board members, including the specific language for the proposed amendment, and the matter was properly placed on the Board's agenda.

Section 8.2 Approval of Amendments. Any amendment to the Board's bylaws requires the approval of two-thirds of the total membership of the Board.

ARTICLE IX

LEGAL COUNSEL

Section 9.1 Advice. An Officer or Committee Chairperson may seek informal, verbal advice from the Board's assigned Deputy Attorney General as the Officer or Committee Chairperson deems necessary. The Committee Chairperson may request that the Board Chairperson seek formal written advice or opinion from the Attorney General. The Board Chairperson may seek formal written advice or opinion from the Attorney General.

Section 9.2 Written Opinion. Whenever a formal legal opinion is issued by the Attorney General or a Deputy Attorney General, such opinion and request shall be distributed to all members of the Board.

ARTICLE X

PARLIAMENTARY AUTHORITY

Section 10.1 The rules contained in *Robert's Rules of Order*, newly revised, shall govern meetings where they are not in conflict with the law, these bylaws, or other rules of the Board. In making a ruling or interpretation of the rules, the order of determination shall be 1) the law, 2) these bylaws, 3) Board policy, and 4) *Robert's Rules of Order*, newly revised.

Approved: 04/26/11

Amended: 05/17/11