

APPROVED

State of Hawaii
Charter School Review Panel Meeting
Monday, August 6, 2007
State Capitol, Room #423
10:00 a.m.

Minutes

Attendance:

Nina Buchanan – Co-Chair
Pualani Akaka
Ku Kahakalau
Denise Matsumoto
Manulani Meyer
Alvin Parker
Ardith Renteria

Maunalei Love, Charter School Administrative Office
Traci Satogata, Charter School Administrative Office
Bob Roberts, Charter School Administrative Office

Holly Shikada, Department of the Attorney General
Melissa Chee, Department of the Attorney General

Jennifer Brooks, Office of Information Practices

I. Call to Order

The meeting was called to order at 10:14 a.m. by Co-Chair Ms. Buchanan.

II. Approval of Minutes

The Charter School Review Panel (Panel) members reviewed the draft minutes from the July 20, 2007 meeting.

Ms. Kahakalau referred to page 5 and asked to change the attribution of a statement from Ms. Akaka to Ms. Kahakalau.

Ms. Buchanan moved and Ms. Akaka seconded to approve the minutes from the July 20, 2007 meeting with amendments. Motion passed unanimously.

III. Announcements

Ms. Akaka stated that they needed clarification on the seating of the new members of the Panel that would take the Panel from 7 to 12 members.

Ms. Buchanan mentioned that they needed to quickly follow through on the Executive Director (ED) Search; we will need to approve the salary after consideration of the selected applicant's qualifications and experience.

Ms Kahakalau mentioned the duties of the Panel and that she was absent, but would like copies of the job description for the Executive Director. She also said that the job description for the special assistant needs to be revised, updated and approved.

Ms. Buchanan stated that this is not an agenda item for today and that the Panel needs to fill the open Co-Chair position. She also said that the Panel needs to get position ads out as soon as possible for both positions.

Ms. Kahakalau said that the Panel needs staff to assist them and asked the Chair to work with the Charter School Administrative Office (CSAO) to get the ad out.

Ms. Kahakalau said that the Panel needed to get the Executive Director and staff in place.

Ms. Buchanan said that the Panel needs to hire staff as soon as possible. The CSAO Executive Director salary will depend on experience and education. There is no set salary range.

Ms. Buchanan announced that the authorizer conference is scheduled for October 22nd and 23rd in Savannah, GA. Mr. Parker stated that the Panel needs to send someone to this conference. Ms. Kahakalau said that funding to attend the conference is available.

Ms. Kahakalau stated that Mr. Birkett's last day at Lanikai was the previous week and that the Panel needed to elect a new Co-Chair. Ms. Buchanan said when the additional members come on board and the Panel has 12 members, the decision about whether to have Co-Chairs can be discussed.

Ms. Kahakalau moved and Ms. Meyer seconded to move agenda item VI. Public Input up to this point in the meeting. Motion passed with four votes in favor and one abstention. The Chair did not cast a vote.

IV. Public Input

Elizabeth Haws Connally of Alston, Hun, Floyd and Ing representing Akamai Secondary Charter School read a prepared statement.

“We represent Akamai Secondary Charter School (“Akamai”) and appear today to express a number of concerns regarding the procedures for acceptance of a new charter school, and the statutory regulations and administrative rules which are to apply to this process.

“In January 2007 Akamai submitted an application to the State of Hawaii Review Panel (“Review Panel”) to become a new charter school. Akamai’s application addressed the requirements outlined in the Hawaii Revised Statutes (“HRS”) for start-up charter schools, and the application provided by the Charter School Administrative Office. Because Akamai had already received one of three federal subgrants awarded to qualified applicants for the purposes of planning a Start-Up Charter School, in accordance with Hawaii’s charter school law, we reasonably anticipated that timely action would be taken on our application. However, no action was ever taken on Akamai’s January 2007 application.

“On May 14, 2007, the Review Panel requested charter school applicants to submit their Detailed Implementation Plans (“DIP”) by June 1, 2007. Along with this request, the Review Panel issued a new Scoring Rubric (“Rubric”) for the assessment of the DIPs. This Rubric differed from the application originally distributed by the Charter School Administrative Office. More importantly, the terms of the new Rubric directly conflicted with statutory requirements for operation of a charter school in effect at that time. Although Akamai already had an application on file, it was instructed to submit a new DIP. On June 1, 2007, Akamai complied and timely submitted another application which included a new DIP based on the new Rubric.

“On that very same day, Act 115 was signed into law. Many provisions of Act 115 directly affect the evaluation and review process for charter school applications. Despite the change in the law, the Review Panel did not seek any amendments to the DIP’s from the charter school applicants, or clarify which standards – the requirements under the old law, the Rubric, or the new law – would be used to evaluate the DIPs.

“In July, Akamai learned that: (1) the Review Panel denied its application at the June meeting; and (2) the Panel then nullified its decisions at the July meeting. To date, Akamai has received no notice of the Review Panel’s decision and it has received no information on the status of its applications.

“Akamai is very concerned about what has taken place and what actions the Review Panel is proposing to take. Akamai’s concerns include, but are not limited to:

1. Failure to review and issue a decision on Akamai’s January application;
2. A lack of clear guidelines for start-up charter applications which conform to the requirements of HRS Chapter 302B;
3. Failure to conform to the start-up charter school application process and schedule set forth in HRS Chapter 302B;

4. Failure to comply with the requirements of HRS Chapter 92 and 92 F;
5. Failure to timely review and issue a decision on Akamai's June application;
and
6. The adverse impact these actions and inactions have had on Akamai's interests as a federal subgrant recipient.

"Although we can appreciate the challenges facing the new Review Panel, Akamai and all the other applicants are each entitled under HRS Chapter 302B-5 to: (1) a review of their application under the guidelines in effect at the time of their application; and (2) a written decision on their application, including any reasons for denial of application. We ask that the Review Panel take action on the existing applications immediately.

"Thank you for the opportunity to testify before you today."

V. Presentation by the Office of Information Practices on Chapter 92

Jennifer Brooks, Office of Information Practices (OIP), gave a presentation on Hawaii's Sunshine Law. She explained the laws relating to public meetings and provided the Panel members with a summary sheet about Hawaii's Sunshine Law.

Panel members asked questions of Ms. Brooks.

Ms. Akaka asked a question the Panel lobbying – would that be Panel business. Ms. Brooks responded if not before the board – not business

Ms. Buchanan asked about a stand on charter school caps – should it be approved by the Panel and be presented by one or two person on the board.

Ms. Akaka said 2/3s of the Panel members present could vote to add agenda items.

Someone asked if it was true that no voting can occur in Executive Session.

Ms. Kahakalau said timing of testimony is important.

Ms. Akaka mentioned no staff, yet – Panel concurs – discussed by Ms. Kahakalau and Ms Akaka – voice their concerns.

Ms. Meyer and Ms. Buchanan said – things come up in six days; add items and 2/3 of members vote; minor agenda – affect people on the Panel only – if people don't care too much – valid – no set time the law restricts.

Ms. Kahakalau said – concept of a quorum is important – Are there currently 8 or 9 members of the Panel? Ms. Akaka said seven. Ms. Buchanan said Panel according to law equals an eight member Panel – for quorum to meet and a majority vote – not set by the Sunshine Law per Ms. Brooks. The Panel must have

a quorum to meet legally. In the transition before additional members are added, the law sets 5 members as a quorum. The Panel needs a majority vote to pass an action item.

Ms. Kahakalau said issue charter by a majority vote – uniform operation act – Ms. Brook’s office has it.

Ms. Akaka said anything less than six days need to use tele-conferencing. Ms. Brooks responded – audio or video teleconferencing – emergency meeting – if it’s a peril to the public health and welfare.

VI. Executive Session with the Attorney General HRS §92-5(a)(4)

Ms. Kahakalau moved and Ms. Meyer seconded for the Panel to enter into Executive Session. Motion passed unanimously.

The Panel went into Executive Session at 12:00 p.m.

The Panel ends Executive Session and resumes the public meeting at 1:50 p.m.

VII. Public Input

Jim Konantz of Hawaii Technology Academy (HTA) spoke. He asked the Panel to authorize school to open immediately, further discussion August 7, 2007 – inform decision for their children – make choices interest for the children – asking on behalf of children and parents to start – purpose for three charter schools in Hawaii – Try to have schools start in August 2007 – test scores would rise. Improvement in school – Student is an individual – needs to be address with the updated technology – if further delay opening school – over 250 students will be left out. Why are the children denied access in the opening of schools?

Paul Vierling, a concern citizen, spoke. Public input – sheet given to us for review.

Elizabeth Haws Connally of Alston, Hunt, Floyd and Ing requested that the Panel approve the application from Akamai.

Ms. Kahakalau commented that what the Akamai application referred to as Hawaiian students who seek enrollment – all students per Mr. Konantz plus students of native Hawaii – foreign students, local students – who is considered as Hawaiian students. Intent is to serve all students with Hawaiian culture.

VIII. Discussion/Action on the Conversion and Start-up Charter School Application Process

Ms. Buchanan opened the discussion on the conversion and start-up application process. The Panel has approved part of this process at different meetings. We

pulled all the parts into one document. We also have gone through a transition from one law to another; this has delayed our work. We also need to be aware of Chapter 92, the Sunshine Law. We are attempting to act responsibly together to support charter schools.

Mr. Parker asked when the Panel became the authorizer. June 1, 2007.

Ms. Buchanan said it was time to walk through and make changes on this agenda – to explain the whole big picture and Ms. Renteria put things together upfront start-up and second part is conversion.

Ms. Renteria referred to page 4 of the Hawaii Public Charter School Charter School Application Review and Decision Process 2007. She suggested scratch approve and put effective June 1, 2007. To create this document, Ms. Renteria copied and pasted the revised law regarding the application process.

Ms. Buchanan said we need to make some changes.

Ms. Renteria made suggestions for changes.

Ms. Kahakalau said new charters – new act on our plate right now, pull out change for now.

Ms. Buchanan said clean copy of the law – make that change.

Ms. Kahakalau said procedure questions process we're in right now, hold questions.

Ms. Renteria commented that the process can be seen as one cycle – nothing written, back track and put down in writing and whatever is to come.

Ms. Buchanan said walk through this – bring up concerns now.

Ms. Kahakalau referred to page 5, section 9, number 4 of the Hawaii Public Charter School Charter School Application Review and Decision Process 2007, this was done and every interim school board got a letter after the June 1st deadline.

Ms. Buchanan said that each application was pre-read. The CSAO received the application and the Panel determined that two Panel members would review the applications for completeness and immediately send certified letters to applicants – all applications were found to be complete.

Ms. Kahakalau stated new number eight – five of current Panel, technically made out of seven – discuss now and how clear we are to make a decision on the charter.

Ms. Buchanan said for this round we need to follow the process that was established. Next round there will be plenty of revisions and changes. There will be different due dates, different number of Panel members. For now it is safe to put in five members confer on decision and come to consensus.

Ms. Matsumoto referred to page eight. The BOE Charter School Committee discussed the appeals policy in June – boards policy. Because of the potential for appeals, the Panel would be wise not to immediately issue charters. It should hold off until after the appeals process is complete. If we sent out charters, money might have been run out, not a denial but an assurance on the complete process.

Ms. Buchanan said cannot make changes here, coming later – what's in the law now.

Ms. Renteria said number 7 scratch that out – last line on page 7 of the Hawaii Public Charter School Charter School Application Review and Decision Process 2007. Page 8 – take out appeal process, effective date June 2007.

Ms. Meyer noted that the appeals process was about 90 days – 21 days to appeal to the board, 60 days for the Board to act upon the appeal.

Ms. Renteria asked a question about definitions five paragraph entire files – define entire files as a Panel – attorney general wording per Ms. Matsumoto.

Ms. Matsumoto said if a charter is denied the second time the applicant can appeal to the Board.

Ms. Buchanan said testimony with transcripts and the actual application would be forwarded to the Board. Other things we're not using would not be forwarded.

Ms. Matsumoto said by the Panel – consider people testimony as showing support for their school to open in their area, final documents might include transcripts.

Ms. Renteria asked second to the last on page 9 – what does it mean?

Ms. Matsumoto said whatever the board decides. The Board could send it back to the Panel with the additional information and ask the Panel to reconsider.

Ms. Renteria referred to page 10 – put in application. Is all of the DIP the same as the application? It needs to be separated – does it make any sense – I don't know – refer as an application, plan or DIP or contract.

Ms. Kahakalau said Board of Education assurances – Are these new assurances?

Ms. Renteria said she thought these were the cover sheets.

Ms. Matsumoto said she has researched the board role and Panel's role – Panel is not an LEA, board is SEA, Action plan.

Ms. Renteria this was updated May 18, 2006 – part 1, part b – charter school association – how does that play into the new laws, assurances we are talking about? Do we need to scrutinize the old ones, create new ones, clarity – doesn't make a lot of sense.

Ms. Love of the CSAO said not yet clarified. The Panel at this point would decide – seems like now the CSAO is under the Panel. If the Panel makes any changes and needs to let the school know of these changes like the appeals process – law states – room, approved if board needs to come up with appeals – the board needs to come out with the process. The Panel may need to see if space available and meet criteria before approved.

Ms. Renteria said calling the application the same thing: DIP plan, process.

Ms. Buchanan responded yes, for now, it's the same thing – revisit the assurances and make clear.

Ms. Matsumoto said abide by federal law, they should know what they have, compliance, step in and says ok.

Ms. Akaka said application is also known as application, DIP and plan.

Ms. Kahakalau stated – huge problems – taking care and abide by assurances at that time. We should be very clear on both sides, local school board, DIP had no power, school run by a different groups. That is clear here. The LSBs shall be composed by these certain things and authority – no other certain groups – bottom line, not a local school board, they are the ones making the decision making and accountability – important as Panel, look at assurances how to support and clear according to the law.

Ms. Renteria said that the scoring rubric should include the assurances.

Ms. Matsumoto asked – next meeting what are we putting in, what the Panel is putting in.

Mr. Parker stated – we have precedent – set up umbrella corporation – local school board is under the umbrella, McKenna was clear on where the funding was going – local school board is the governing body.

Ms. Love said – that monitoring the different school boards and training in different things should happen before a charter school opens.

Ms. Buchanan said – comes up in government scores – terminology.

Ms. Renteria asked if the performance contract was the same as a charter.

Ms. Kahakalau said no. When the startup charter schools submitted budgets, they had no clue about how much money we were going to get. If you sign and get this contract, you would expect to get the money budgeted. Not everyone uses the same figures, the budgets are not accurate – but becomes part of the contract.

Ms. Buchanan said – stand by on our end. We assume that applicants get no less than the per pupil figures in the budget.

Ms. Kahakalau said – legally binding contract with a budget – figures on budget should be honored. Charter specifically for budget.

Mr. Parker said a school might be sustainable at 400 students and not at 200 students.

Ms. Meyer said that is important to have accurate projected student enrollment.

Ms. Akaka asked if we want a definition of performance contract.

Ms. Meyer said I want a performance contract with a realistic quality budget.

Ms. Buchanan said – educational accountability is also important.

Ms. Renteria said the charter school, finances, accountability bases may mean that the DIP is not the same as contract.

Mr. Parker said – it's the charter, there is no contract.

Ms. Renteria referred to page 11, stages 1 & 2 of the Hawaii Public Charter School Charter School Application Review and Decision Process 2007 then said timely receipts of letter – June 1 – date way too late.

Ms. Buchanan said the decision we've already made and put them in action for this round will need to be changed for the next.

Ms. Matsumoto said this will be determined by the Panel in the future.

Ms. Buchanan said at the end of sentence "2007 or 2008 deadline was June 1." I just want to clarify that in the future the dates will be different. This is one time only.

Ms. Meyer said it will probably be determined between January and May.

Stage 2

Ms. Renteria referred to page 12 and said that we should clarify the underlined words.

Ms. Buchanan said that the Panel has been given the responsibility to provide guidance for the content and submission of applications.

Mr. Renteria said – changing the title of the thing – leave per Nina?

Ms. Buchanan said the first sentence is awkward.

Question: Leave the 'may' or change to...?

Ms. Kahakalau said to leave 'may', after that change to 'shall', everyone is here.

Ms. Buchanan said -- #4 – 'should' be changed to 'shall'- # 5 'should' be changing to 'may'. For now, it's remaining #8.

Ms. Kahakalau said that it is not fair to people who made the priority date.

Ms. Buchanan said that applications received after the priority deadline would be returned to applicants to refine for the next round of applications and reapply under new guidelines.

Return to application and refine to next round for future solution.

Ms. Renteria said – all stages are complete.

Ms. Kahakalau said – it's the law, submit by June 1 – application is complete.

Ms. Matsumoto said that to vote on an action item – we need five, a majority.

Ms. Akaka said that according to the application submission – timeline, now waiting again for 10 days.

Mr. Parker said that the appeal process extends the timeline.

Ms. Akaka said that if five applications are received by June 1 and the four applications are complete on time and one application is missing one piece, that application has 10 days to submit again. What happens to the applications that were on time, waiting for the other resubmittal?

Mr. Parker said that if an applicant did not meet the criteria the first time but allow them to resubmit was like allowing them to take the test again. Is that fair to those who passed the test the first time?

Ms. Matsumoto said to look at the law (green copy).

Ms. Renteria asked how much time. – 10 days?

Ms. Matsumoto said that we just give them 10 days in the law, mailing and all that.
Ms. Akaka said that we don't look at any application, just wait for 10 days?

Ms. Renteria referred to page 14 – numbers involved.

Ms. Kahakalau said – now situation, 12 members comes then say the majority (7)
– not 100% clear. We should wait for the next round to clarify that.

Ms. Matsumoto said we should act now because she has a conflict with another
committee – needs to get done by September 1, 2007, August 23, 2007, new
Panel members will be named, four new members coming in.

Ms. Renteria said that a minimum of five constitutes a quorum with a simple
majority required to pass motions.

Ms. Matsumoto, since 12 members will be on the Panel. Yes.

Ms. Kahakalau said that conflict of interest in the charter school movement would
be gaining in any way in financially, not previous relations.

Ms. Meyer said that there is no conflict. We're all involved with charter schools by
law. It would be better to say fiscal gain, if you gain fiscally...

Ms. Matsumoto said that the conflict of interest is bias – hard to see that they didn't
meet – it doesn't say on paper, I know who and who is involved...it's a bias.

Ms. Meyer asked what's the quality of our knowing.

Ms. Matsumoto said that it's not appropriate for those who are on the Panel.

Ms. Buchanan said it is a Catch-22.

Ms. Matsumoto said she didn't think of that.

Ms. Meyer said that radical subjectivity does not hide it but make it clear and
truthful, transparent and we can access it. Can't change the future of Hawaii –
what is the quality of this – Nepotism rocks – you know what that means.

Ms. Akaka said that in Hawaii it's `ohana, conflict of interest is a Western concept.

Ms. Meyer said we should work on it.

Ms. Kahakalau said there must be a legal definition.

Ms. Matsumoto said – response we put on the applicant – it's not based on that.

Mr. Parker left the meeting at 3:05 p.m.

Ms. Buchanan said lets keep it for now, until round two.

Ms. Meyer said that potential – everything is potential – encounter.

Ms. Buchanan said that in cases of conflict of interest, cross out potential or actual.

Ms. Meyer said – she is completely aware the issue of conflict of interest – not hide, lower the frequency of an idea.

Ms. Kahakalau said that for the best interest of the Panel, option to remove him - or herself from the discussion,

Ms. Matsumoto said that a member may be removed from or remove themselves from the Panel in decision making when there is a conflict of interest.

Ms. Kahakalau said – chairperson – 3rd bullet

Ms. Buchanan said we will take individual scores and divide them to get an overall score that means we come to the table with individual scores and disclose them, then talk about them and take everyone into consideration until consensus is reached.

Ms. Kahakalau said each section is equally weighted?

Ms. Matsumoto said that all equal and important.

Ms. Buchanan said should we change it?

Ms. Matsumoto said not giving priority to family members – when we scored them, they understood that.

Ms. Meyer said grandparents sit on board – proximity, vigor of community, debatable.

Ms. Buchanan said we're stuck with this.

Ms. Matsumoto said address this because of the grandparents – equal weight. In the recruitment and selection of students. How we do it, no priority, not to only white kids.

Ms. Renteria said all would be of equal weight.

Ms. Buchanan said there had been a discussion of weighting certain items but it was voted down.

Ms. Meyer said easily accessed.

Ms. Buchanan said three parts of education, measurement, evaluation, governance may all be changed before the next round.

Ms. Akaka said part of application is based on the law. There should be a comma and based on the law – the Panel intended.

Ms. Matsumoto the application is doomed to fail if we don't have clarity.

Ms. Buchanan asked to place reference on page 15 of the application process document: The Panel will consider the following criteria, based on the applicable laws.

Ms. Meyer said this is coherent with the law.

Ms. Matsumoto said ELL is not in the state law, but the federal law – so it applies to all public schools.

Ms. Renteria asked what would happen if the applicant received perfect scores on the rubric? The response would be not to approve, so the third option was removed from the process.

Page 16

Ms. Matsumoto said we're not denying the charter.

Ms. Akaka said at the end of round one, applications that need improvement to meet minimum criteria will be returned as well as applications that met the criteria.

Ms. Matsumoto said we're sending all the applications back with feedback. Some will be denied.

Ms. Buchanan said improvement will be equally available to all applicants.

Ms. Love said first time the applications were complete and applicants will have 10 days to revise and resubmit. All applicants have a chance to respond, sent to them with reasons for the denial and have 10 days to get back to the Panel. This is not yet an appeal, the Panel will respond to the amendments and deny them if they did not meet requirements.

Ms. Buchanan said send applications back with feedback to all.

Ms. Matsumoto said we decided those application groups denied have 10 days to amend charter application and resubmit. Those not denied will get written feedback and can amend. The Panel will reconvene and look at them all.

Ms. Buchanan said everyone gets 10 days to return rewritten applications or make any changes. No charter will be issued yet. There will be feedback to all.

Ms. Love said by law the revised application must be resubmitted in 10 calendar days. We're not approving any of them, we can deny and if they meet the criteria, we'll give them feedback.

Ms. Matsumoto asked what if we deny four applicants?

Ms. Buchanan said if applications came in perfect, we still don't issue the charter—different interpretation.

Ms. Akaka moved and Ms. Kahakalau seconded for the Panel go into Executive Session to consult with the Attorney General's office. Motion passed unanimously.

The Panel went into Executive Session at 3:30 p.m.

The Panel ends Executive Session and resumes the public meeting at 3:56 p.m.

Ms. Matsumoto said that page 16 of the Hawaii Public Charter School Charter School Application Review and Decision Process 2007 says that deliberation results in one of the following outcomes for each application: denial or feedback, after each application 10 days to amend their application and be notified of date, when the Panel will reconvene to make final decision. We make the final decision to deny those charter applications then hold the others until the appeals process is complete. Before round two per Ms. Akaka.

If any school was previously denied and we deny again, do we provide another 10 days?

Ms. Renteria left the meeting at 4:00 p.m.

Ms. Buchanan said application seems clear to delete that paragraph (page 16, paragraph 3).

Ms. Matsumoto said four schools have high scores.

Ms. Buchanan said approval will be on the second round.

Ms. Kahakalau said consensus score must meet the criteria, have an acceptable score or higher.

Ms. Kahakalau said deliberation page 16 only one and two.

Stage 4 – Evaluation & Deliberation – round two

Ms. Matsumoto said the Panel will provide feedback if not denied the first time.

Ms. Buchanan said feedback – thank you for fixing that (page 17, two possible outcomes)

Delete conflict of interest, revise 'Each member will' by deleting bullets 1 and 5, and delete the last two paragraphs on page 18. Delete page 19. Delete remainder of numbers 8 and 9 on the top of page 20. Add the word 'consensus' in the second paragraph under 'Scoring Procedures.

Round two

Ms. Buchanan said scratch because repeating.

Ms. Meyer said only amended question we're looking at.

Ms. Buchanan and Ms. Matsumoto said we're not telling the scores.

Ms. Matsumoto said application 'shall' be rescored based on amendment's rubric score.

Page 20

Ms. Meyer said we need to spend more time to discuss this in length – cannot rush it.

IX. Panel Concerns

X. Adjournment

Ms. Meyer moved and Ms. Matsumoto seconded to adjourn meeting. Motion passed unanimously.

The meeting was adjourned at 4:25 p.m.