



Charter Challenges: Policy Issues Facing Charter Schools in Hawai'i

Charter School Policy Issue No. 1

FUNDING CHARTER SCHOOLS

August 2004

Introduction

This report is the first in a series examining the policy issues relating to charter schools in Hawai'i. It addresses the overall challenges to charter schools, the law establishing a charter funding formula, a new program area of the state budget, fringe benefits, and issues needing clarification and resolution.

To date, there are twenty-seven New Century Charter Schools, responsible for the education of nearly 5,000 public school students. About half of these students attend charter schools on Oahu, thirty-eight percent are on the Big Island, and the rest are on Maui, Kauai, and Molokai. Fifty-five percent of the students are in elementary school, forty-five percent in grades 7–12.

Charter schools face many challenges not usually experienced by other public schools, including

1. attending to all the details of planning and opening a new school, or converting an existing one, from defining a curriculum and program of instruction to recruiting administrators and teachers to attracting students;
2. accepting full responsibility for securing major portions of their budgets through outside fundraising;
3. securing and financing facilities, and accepting responsibility for repair and maintenance;
4. serving as administrative and organizational pioneers in the creation of a school's board of directors, with all the complexities of defining the relationship of that board to the school, unions, the Department of Education and the Board of Education; (This year, public schools will begin piloting school-based councils which will enjoy some of the same powers and duties of charter boards.)
5. allocating time and effort to engage in the broader debate over whether charter schools are a positive variation of (or alternative to) traditional public schools or a threat to the public school system; (This debate has been colored by a national context in which some advocates of charter schools are also advocates of private school vouchers and de-unionization of public education. It has also been

- influenced by a common practice in many states and districts throughout the United States of enacting laws requiring public-school systems to fully fund charter schools without allocating additional funds, thus creating some resistance and resentments by public school districts and departments.)
6. serving as educational pioneers in the development of a per-pupil student funding system, the most common method of funding charter schools, paving the way for the future adoption of a student-weighted-formula system for all public schools;
 7. coping with an evolving and unstable legal environment whereby the relationship of charter schools to the Board of Education, the Department of Education, and various other state agencies has been redefined and amended in nearly every legislative session;
 8. addressing differences with the Department of Education over how to best and fairly fund charter schools, translating appropriate accountability into some regulatory control over charter schools, and negotiating the ambiguity of a form of public schooling which shares features with private schools;
 9. coping with the differences among charter schools in the charter school network, issues such as size, geographic location, conversions, partnerships with non-profit organizations, specific focus on native Hawaiian culture or language, and unionization of employees.
 10. experiencing an ongoing dispute over interpretation of the funding formula, and how funding actually flows to and from the charter schools; and
 11. experiencing an as-yet undefined relationship with a new Charter Schools Administration Office, one in which the director has changed twice in six months, where there are in effect two boards of directors (the Board of Education and the Charter School Network) and where the actual day to day duties (or capacities of the office) have not yet been determined.

The purpose of this series of Policy Reports is to identify some of the most serious policy issues facing charter schools and highlight areas of dispute that policy makers may want to consider for clarification in the law/policy.

Charter School Policy Issue No. 1: Funding

Among the different funding issues often discussed for charter schools are the following:

1. The calculated per-pupil allocation based on a formula referenced in the law;
2. The actual annual legislative appropriation embedded in the overall Department of Education (DOE) budget for all public schools, including charter schools;
3. The creation of a new program area of the DOE budget for charter schools, EDN 600, and the amount appropriated for that program area;
4. The *actual* costs of the DOE providing overhead services, such as payroll, for charter schools;
5. The amount the DOE *charges* for such overhead services;
6. The estimated amount it takes to adequately run a charter school;
7. The estimated fringe benefit costs for all DOE personnel that the Department of Budget and Finance transfers out of the DOE budget ; and

8. The estimated fringe benefit costs that are now being deducted from each charter school's per-pupil allocation.

The Charter School Funding Formula:

The funding formula for charter schools has evolved from requiring the State Auditor to create its own formula to placing a formula into law. Currently, the law uses the Department of Education's "Consolidated Annual Financial Report" as the basis for calculating how much each school will receive. The latest report that is available is for the 2002–2003 year. Any significant changes, such as additions for collective bargaining increases, would not be reflected in the funding formula for at least one year.

The Law

Regular Department of Education public schools in Hawai'i do not receive funding on a per-pupil basis. The needs of a school (salaries, equipment, operating expenses, special projects, textbooks, etc.) are paid not by the school itself but by centralized offices from large categories of general funds, such as school based budgeting, comprehensive school support, instructional support, etc. There is very little discretionary funding controlled at the school level. While it is possible to calculate a per-pupil allocation for a school or an average for the entire system, the controls and the bookkeeping are all at the district or state levels. Schools *do not* receive a lump sum with which they must pay for all expenses. Charter schools in Hawai'i however *do* receive a lump sum and this is based on a calculated per-pupil amount. Thus, there is a fundamental difference between how "regular" public schools are funded and how Hawai'i's charter schools are funded.

According to Hawai'i Revised Statutes Section 302A-1185, "general fund appropriations for each new century charter school shall be based on

- (1) The actual and projected enrollment figures in the current school year for each charter school; and
- (2) A per-pupil amount for each regular education and special education student, which shall be equivalent to the total per-pupil cost based upon average enrollment in all cost categories, including comprehensive school support services but excluding special education services, and for all means of financing except federal funds, as reported in the most recently published department of education consolidated annual financial report, provided that the legislature may make an adjustment to the per-pupil allocation for the purposes of this section."

This section is significant because it explicitly indicates that the base amount for calculating per-pupil allocations shall utilize "all cost categories," with only two exceptions, funding for special education services and federal funds. There is no language in this section of the law that allows or implies that other costs, such as fringe benefit costs, are not part of the base amount, or that fringe benefit costs may be subtracted from the per-pupil amount after it is calculated and before it is transmitted to the schools.

According to the Hawai'i Department of Education's Consolidated Annual Financial Report for the July 1, 2002 - June 30, 2003 year, the most current available, the total of all funds was \$1,657,269,138. (The per-pupil cost based on *average enrollment* for the DOE was approximately \$8,400, or based on *average attendance*, just under \$9,000.)

However, the charter school funding formula requires a slightly modified calculation. From the \$1.6 billion total funding figure, approximately \$370 million for special education and approximately \$164 million in federal funds must be subtracted. The remainder is divided by the total number of public school students (roughly 182,000).

For the 2004–2005 school year, the calculated per-pupil charter school allocation is \$5,736. This amount is multiplied by the number of students enrolled in each charter school to derive that school's allocation. It must cover not only payroll but all expenses. To date, unlike the “regular” public schools, the capital costs of building facilities are not provided to charter schools in a separate appropriation. Thus, the per-pupil allocation also must accommodate payroll, supplies, all operating expenses, any facility rentals, repair and maintenance costs, and capital construction needs.

In addition, charter schools that have special education students with needs they cannot meet with services at their respective schools can utilize centralized special education services from the DOE.

The Department of Education is required to transmit, through the Charter Schools Administrative Office, fifty percent of this annual allocation no later than July 20. The obligation exists whether or not any particular program area of the DOE budget contains the accurate and full amount of these funds. (The newly created Department of Education program area of the state budget, EDN 600, does not change this obligation. See discussion below.)

The EDN 600 Budget Program Area

Briefly, the state budget document categorizes appropriations first by each department, and then by specific budget categories. These are called “program areas”. Among these program areas under education are EDN 100 – SCHOOL BASED BUDGETING, EDN 150 – COMPREHENSIVE SCHOOL SUPPORT, EDN 200 – INSTRUCTIONAL SUPPORT, EDN 300 STATE AND DISTRICT ADMINISTRATION, etc. In the 2004 Legislative Session, a new program area was added under the department of education, EDN 600, CHARTER SCHOOLS. For the first time, a substantial portion of charter school funding has been separated from the other EDN budget categories and transferred to EDN 600.

Some policy makers have indicated a desire to interpret the EDN 600 budget category as representing a “cap” on charter funds. This would be true if EDN 600 was a special fund, or a revolving fund. However, it is neither. It does represent a certain legislative intent. However, the legislature also created flexibility. The state budget bill routinely includes a proviso that allows departments, including the DOE, to move funds from one program

area to another. Indeed, another new law in 2004 (SB 2425 SD 1, HD 1, CD 1) specifically required that if there were an increase in charter school enrollments to a level not covered by the amount appropriated in EDN 600, the DOE shall transfer funds into that account. Conversely, if the enrollments decrease, funds shall be transferred back to another DOE budget category. Other DOE funds, particularly those for special education, will be utilized in part to service special education students attending charter schools. This is part of the reason why special education funds were deleted from the DOE funding base to calculate the charter per-pupil funding allocations. In addition, the funding of court-ordered services for special education students remains an obligation for the DOE.

The new program area, EDN 600, is thus a porous and flexible accounting convenience, but not a legal cap on resources for charter schools. This is not to say that EDN 600 does or does not contain an adequate amount of funds for charter schools in the 2004–2005 school year. The issue of adequacy of funding is a separate one.

The Fringe Benefit Issue

For most Hawai‘i government departments, fringe benefit costs for employees (including health insurance and retirement costs) are not appropriated to the department in which they work. These costs are annually estimated by the Department of Budget and Finance and included in their budget request to the legislature. These “guesstimates” must be adjusted from year to year, and do not represent the “actual” fringe benefit costs in any one fiscal year. However, they are based on the payroll, and not on the overall operating budgets of departments.

The Department of Education is treated differently, as is the University of Hawai‘i. Fringe benefits for employee salaries are first included in the overall budget, then immediately transferred out, and, as in other departments, are based on *estimates*. This “now you see it, now you don’t” annual slight of hand has no impact on the overall operational budget of the DOE. However, in the just-approved state budget, amounts assessed to the charter schools were derived from a percentage of the *entire operating budgets* (i.e. the per-pupil allocations) of these schools.

There is a disagreement over whether the costs of fringe benefits for charter school employees *should* affect the per-pupil allotment. The Charter Schools Administrative Office and the Department of Budget and Finance have recommended that a calculated per-pupil allocation of \$5,736 for charter operations in 2004–2005 be reduced by \$1,110 per-pupil to pay for fringe benefits. The \$1,110 is an estimate made by using an average percentage of DOE fringe benefit costs. However, close scrutiny of the amounts indicate the estimated fringe benefit costs to be deducted were not based on the payrolls of charter schools, but on their overall operating fund totals. One factor that complicates this issue is that while most charter school employees are also DOE employees, this is not always the case. In a few schools the staff are either employees of the University of Hawai‘i or the Research Corporation of the University of Hawai‘i.

Confusion may have arisen because specific fringe benefit costs were referenced in two budget provisions that essentially deducted over \$5 million from EDN 600. This was presumably an estimated amount of fringe benefit costs that would be associated with the payroll of a comparable number of “average” DOE employees, and was intended to ensure that these funds were indeed transferred to the appropriate accounts.

None of these details change the meaning of the language of Hawai‘i law, Section 302A-1185. In previous years, the legislature appropriated far fewer funds for charter schools than called for in the formula. The Department of Education was obligated to fund the per-pupil amounts regardless of the appropriation level.

A reduction of \$1,110 from the calculated 2004–2005 per-pupil allocation brings the coming year’s allocation *below* that of last year’s amount, obviously impacting the nearly 5,000 public school students attending these schools. Staff members from both the House Committee on Finance and the Senate Committee on Ways and Means indicate they were unaware that the most recent budget was being interpreted to actually reduce the allocation, and that it was not their intent.

Thus, even if fringe benefits could by law be deducted from charter allocations (which do not appear to be the case in Section 302A-1185) charter schools are treated differently than any other State entity. That is, they are the only state administrative units that have been charged fringe benefits on their entire operating budgets.

The Hawai‘i Educational Policy Center was unable to discover any provision in the law that would permit assessing charter schools a percentage of overall operating funds for fringe benefit costs, or even of *actual* payroll fringes.

Persistent Issues Needing Clarification

The evolving arrangements, accommodations, understandings, and policy shifts over the funding of charter schools suggests that policy makers may want to examine the following issues for clarification in the charter law:

1. Transferring the fringe benefit costs of charter schools to the Department of Budget and Finance, which would incorporate these costs in its overall statewide appropriation requests, thus removing this issue as a point of annual contention and dispute within the Department of Education.
2. Conducting an “adequacy study” for charter schools to determine a minimum level of funding required for building, maintaining, and operating a school while providing innovative educational leadership and improving student achievement.
3. Including a separate charter capital improvement funding section of the state budget.
4. Clarifying the obligation of the Department of Education to fully fund the charter school per-pupil funding allocation as described above in HRS 302A-1185.

5. Identifying additional costs that appear to fall “between the cracks,” such as designating a department responsible for workers compensation and unemployment insurance costs incurred by the charter schools.

Appendix:

Recent amendments to the charter school funding law.

Description:

Allows the legislature to adjust the most recent consolidated annual financial report of the department of education and make additional appropriations for fringe or other employee benefits, and facility costs; requires the charter school administrative office to provide the initial 50% of a new century charter school's per-pupil allocation no later than July 20 of each year, 40% no later than November 15 of each year, and the remaining 10% no later than January 1 of each year; appropriates funding. (CD1)

A BILL FOR AN ACT RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 302A-1185, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1185 New century charter schools; funding. (a) Beginning with the fiscal year 2004-2005 supplemental budget request, and each budget request thereafter, the charter school administrative office shall submit a request for general fund appropriations for each new century charter school based upon:

- (1) The actual and projected enrollment figures in the current school year for each charter school; and
- (2) A per-pupil amount for each regular education and special education student, which shall be equivalent to the total per-pupil cost based upon average enrollment in all cost categories, including comprehensive school support services but excluding special education services, and for all means of financing except federal funds, as reported in the most recently published department of education consolidated annual financial report[-], provided that the legislature may make an adjustment to the per-pupil allocation for the purposes of this section.

The legislature shall make an appropriation based upon the budget request; provided that ~~[the]~~ legislature may make additional appropriations for collective bargaining increases for charter school employee members of collective bargaining units, fringe and other employee benefits, facility costs, and for other requested amounts. The governor, pursuant to chapter 37, may impose restrictions or reductions on charter school appropriations similar to those imposed on other public schools.

(b) All federal financial support for new century charter schools shall be no less than all other public schools; provided that if administrative services related to federal grants and subsidies are provided to the charter school by the department, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that does not exceed six and one-half per cent of the charter school's federal grants and subsidies.

Any new century charter school shall be eligible to receive any supplementary financial grant or award for which any other public school may submit a proposal, or any supplemental federal grants limited to new century charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to these supplementary grants, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that does not exceed six and one-half per cent of the supplementary grant for which the services are used.

All additional funds that are generated by the local school boards, not from a supplementary grant, shall be separate and apart from allotted funds and may be expended at the discretion of the local school boards.

(c) To enable new century charter schools to access state funding prior to the start of each school year, foster their fiscal planning, and enhance their accountability, the charter school administrative office shall:

(1) Provide ~~[forty]~~ fifty per cent of a new century charter school's per-pupil allocation based on the new century charter school's projected student enrollment no later than ~~[August 1]~~ July 20 of each fiscal year; provided that the new century charter school shall submit to the charter school administrative office a projected student enrollment no later than May 15 of each year;

(2) Provide an additional forty per cent of a new century charter school's per-pupil allocation no later than ~~[October]~~ November 15 of each year; provided that the new century charter school shall submit to the charter school administrative ~~[office a verified student enrollment no later than September 15 of each year; and]~~ office;

(A) Student enrollment as verified on October 15 of each year, provided that the student enrollment shall be verified on the first day of business immediately prior to October 15 should that date fall on a weekend;

(B) An accounting of the percentage of student enrollment who transferred from public schools established and maintained by the department, provided that these accountings shall also be submitted by the charter school administrative office to the legislature no later than twenty days of each regular session; and

(3) ~~Provide the~~ The remaining [twenty] ten per cent per-pupil allocation of a new century charter school [based on the new century charter school's verified student enrollment] no later than January 1 of each [year; provided that the new century charter school shall submit to the charter school administrative office a revised student enrollment no later than December 1 of each year.] year as a contingency balance to ensure fiscal accountability.

(d) The department shall provide appropriate transitional resources to a new century conversion charter school for its first year of operation as a charter school based upon the department's allocation to the school for the year prior to the charter school's conversion.

(e) No new century charter school ~~nor~~ or new century conversion charter school may assess tuition.

(f) The department shall transfer additional funds from EDN 100 to EDN 600 for new century charter schools whose student enrollment, verified on or immediately prior to October 15 as provided for by subsection (c), exceeds the new century charter schools' projected student enrollment, in an amount corresponding to the number of additional students and the per-pupil allocation. The charter school administrative office shall transfer from EDN 600 to EDN 100 any excess per-pupil allocations for new century charter schools whose verified student enrollment is lower than their projected student enrollment in an amount corresponding to the lower number of students and the per-pupil allocation."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,472,714, or so much thereof as may be necessary for fiscal year 2004-2005, for new century charter schools.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 2004.