

ARTICLE IX: ADMISSION, ENROLLMENT, AND ATTENDANCE

Section 9.1 Compulsory Education

The School shall follow the age and compulsory attendance requirements set in HRS § 302A-1132.

Section 9.2 No Tuition or Fees for Admission, Enrollment, or Attendance ~~The School shall follow the provisions of~~ HRS §302D-28, (h).

Section 9.3 Applications, Admissions and Enrollment

The School shall comply with its admission policies and procedures approved by the Commission ~~as compliant with appropriate sections of 302D-34, Enrollment and HRS §1-13, Official Languages.~~ The School shall submit a description of its current lottery process to the Commission and shall provide ~~written~~ notice to the Commission if there is a material change made to the current lottery process, ~~at least thirty (30) days prior to the date of the proposed implementation for comment.~~

Section 9.4 Amendment to Enrollment

The School shall submit to the Commission a Petition to Amend Charter Contract to approve an increase in the maximum enrollment of the School no later than one (1) year before the requested change date with evidence that the School Property has sufficient capacity to accommodate the increased enrollment, and the quality of the educational program at the School is satisfactory and will not deteriorate as a result of such increase; and such other items as the Commission may request.

Section 9.5 Attendance

The School shall maintain and adhere to its attendance policy. ~~The School shall maintain daily records of student attendance and absences.~~

Section 9.6 Attendance: Virtual and/or Blended Learning School/Program

~~The School's attendance policy shall include:~~

1. School procedures to account for student attendance online; and
2. The requirements for on-site attendance for each course and grade level.

The School shall maintain daily records of virtual and/or blended student attendance and absences.

Section 9.7 Right to Remain

The School shall comply with the 42 US Code §§11431-11435. Students who fail to attend the School as required by HRS §302A-1132 may be removed from the School's rolls only after the requisite unexcused absences have been documented and all truancy procedures followed, consistent with HRS §§ 302A and 571-11, the provisions of the McKinney-Vento act, and Commission policy.

Section 9.8 Dismissal

~~Involuntary dismissal~~ or transfer a student ~~may be accomplished through procedures~~ established by the School that are in compliance with HRS §§ 302A-1134 and 302A-1134.6, and due process requirements, provided that any dismissal of a student with a disability shall comply with the requirements of Chapter 8-60, HAR.

Section 9.9 Withdrawal and Transfer

The School shall adopt and adhere to withdrawal and transfer procedures which provide for the timely release of any student who withdraws from the School and/or transfers to another school. The School's withdrawal and transfer procedures shall also provide for the transfer of the student's records to the new school in a reasonable timeframe.

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Deleted: **Section 9.4 Enrollment**
Enrollment in the School shall be open to all students of ages and grades as set forth in Section 9.1 above who are residents of the State of Hawai'i. Pursuant to Section 302D-34, HRS, the School shall make all student recruitment, admissions, enrollment, and retention decisions in a nondiscriminatory manner and without regard to race, color, ethnicity, national origin, religion, gender, sexual orientation, income level, disability, level of proficiency in the English and Hawaiian languages, the two official languages of the state pursuant to HRS §1-13, need for special education services, or academic or athletic ability. The School shall not impose enrollment preferences, except as allowed for in HRS §302D-34. Any enrollment preferences adopted by the School shall be included in the admissions policy and procedure. The School shall admit students at any time during the school year until the School has met its grade-level enrollment targets or school-wide enrollment limits approved by the Commission and set forth in **Exhibit "A"**.

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ARTICLE XII: HEALTH AND SAFETY

Section 12.1 Safe Environment

The School shall maintain a safe learning environment at all times. The School shall develop and adhere to a safety plan, which shall be readily accessible from the School's website, as described in Section 10.8 of this Charter Contract.

Section 12.2 Food Services

If a School offers any type of food service on campus, the School shall comply with all applicable federal, State and county laws, rules, and regulations related to Food Services including the handling, preparing, and serving of food.

Section 12.3 Health Clearances

The School shall have policies and procedures in place to comply with HRS §§ 302A-1154 to 302A-1163, and HAR Chapter 11- 157.

Section 12.4 Student Health

The school will comply with applicable laws, rules, regulations, and the Commission's guidance document related to safety and the provision of health related services, including but not limited to appropriate health services and the dispensing and storage of medications.

Section 12.5 Reporting of Crime-related Incidents

The School shall adopt policies and procedures to comply with 302A-1002, Reporting Crime-Related Incidents and 8-19-19, Reporting class A and class B offenses occurring school as defined in 8-19-6 and 8-19-13 and HRS §350-1.1, relating to suspected child abuse or neglect. Policies will include appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of School officials.

Section 12.6 Use of Tobacco Prohibited

Pursuant to HRS §302A-102, and HAR §8-19-6, the School shall prohibit the use of tobacco and tobacco products at its school or at School functions.

Deleted: , requiring documentation that each student has received immunizations against communicable diseases, is free from tuberculosis in a communicable form, and has received a physical examination. Pursuant to HRS § 302A-1161, if a child does not complete the immunizations or physical examination required within the period provided by HRS §302A-1155, after provisional entry into school, the School shall notify the parent or guardian of the child that if the required immunizations or physical examination is not completed within thirty days of the date of the notice, the child shall not be admitted to the School.

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Establish procedures for reporting any incident; and

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Occurred or will occur on School property during School hours or during activities supervised by the School; and ¶
Involves crimes relating to arson, assault, burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;

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ARTICLE XIV: SCHOOL FACILITIES

Section 14.1 Location

The School facilities are located at the address(es) indicated in **Exhibit "A"** and as described in Section 2.1 above.

Section 14.2 Occupancy Rights

The School shall possess the lawful right to occupy and use the premises on which the School operates. The School shall provide the Commission a copy of the School's lease, deed, or other occupancy agreement for all locations identified in **Exhibit "A"**.

Section 14.3 Compliance with Codes

The School shall be located in facilities that comply with all applicable State and county building, zoning, fire, health, and safety code requirements.

If the School is located in facilities other than State or HIDEOE facilities, the School shall obtain and maintain any necessary certificates or permits required for use and occupancy of the School's facilities from the applicable building, zoning, fire, health, and safety authorities. The School shall immediately notify the Commission in the event that any such certificate or permit is jeopardized, suspended, or revoked.

The School shall comply at all times with the occupancy capacity limits set by zoning, building, fire, and other applicable regulations.

Section 14.4 Emergency Relocation

In the event of natural disasters, emergencies, and/or damage to a School's facilities, the School may provide educational services at a temporary location not identified in **Exhibit "A"**, provided the School notify the Commission of the location prior to the start of services at the temporary location and submit monthly updates on location status using the Commission's Facility Update Form.

Section 14.5 Non-Emergency Relocation or Expansion of Facilities

The School's relocation from the original facility or the request for additional facilities for non-emergency reasons shall constitute a material change to the Contract and shall require prior written approval by the Commission pursuant to Section 2.4 of this Charter Contract.

The conditions a-d appear to be "backdoor" means of closing down a school.

In regard to a: a new charter school may not have opened and perhaps the building burns down before occupancy or the owner decides not to honor the lease. In such a case, the school should not be held to this condition.

In regard to b: new facilities might actually improve a school's ability to improve its rating on the APF.

In regard to c: I have been informed by Commission staff that NOCs are **not punitive** and yet it is being used in a punitive manner in this case. If a school has corrected a material law violation or addressed a NOC in an acceptable manner, why should a school be penalized?

In regard to d: I believe Section 14.1 Location covers this item. It doesn't make sense in this section.

The conditions for approval are stated in #3.

The School shall submit to the Commission for its approval of the proposed relocation or additional campus no later than April 1 prior to the Academic Year in which the relocated or additional campus will open.

- a. The Commission shall approve or deny the proposed location within 90 days of the School's submitted proposal.
- b. For new charter schools, the Commission reserves the right to delay or prohibit the School's opening of an additional campus until the School has satisfied each of the Pre-opening Conditions.
3. Final approval of the relocation or additional campus location shall be contingent upon meeting the following conditions:
 - a. Submission of enrollment projections for the upcoming school year, should the School seek to increase enrollment;

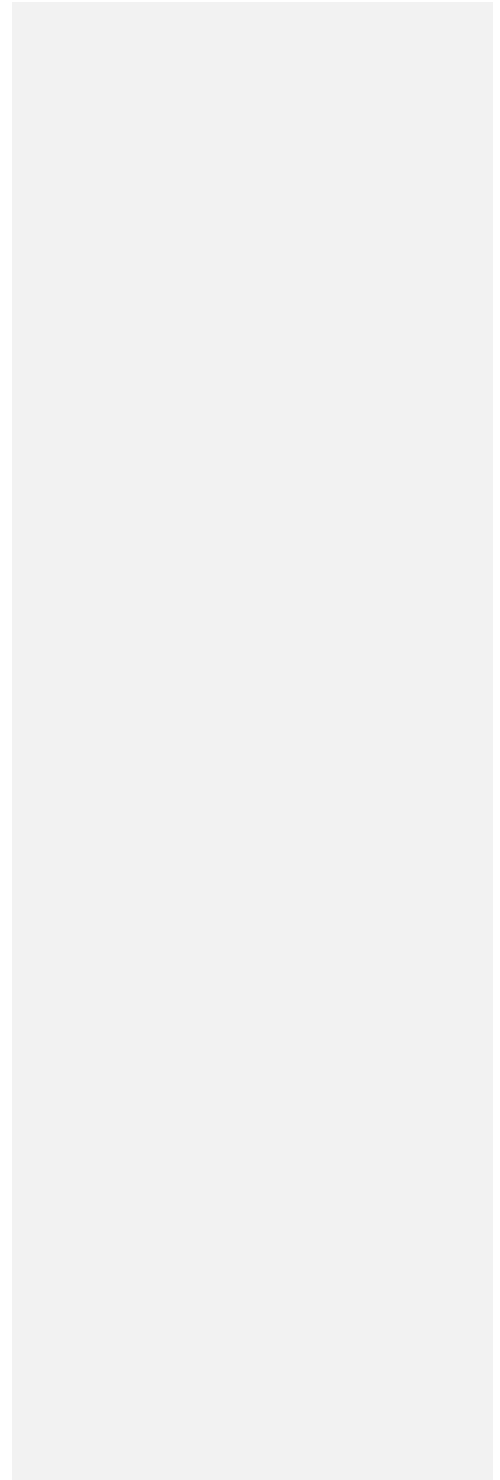
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Deleted: <#>Consideration by the Commission for the School's facility relocation or an additional campus at a different location will require the School to meet the following conditions:¶

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The School programs earn at least a 73%, or its equivalent, on the Academic Performance Framework (APF) for the most recent year of reporting;¶
There have been no material violations of the law and neither the School nor any existing campus is under a charter Notice of Concern described in Section 17.7;¶
The School shall provide educational services, including the delivery of instruction, primarily at locations identified in **Exhibit "A"**.¶

- b. Submission to the Commission a Certificate of Occupancy for the new facilities prior to the first day of occupancy;
- c. Submission to the Commission of a lease, deed, or other document showing the School possesses the right to occupy the new premises;
- d. Submission to the Commission documentation that the new facilities meet applicable health, safety, fire, building, and zoning code requirements; and
- e. Submission to the Commission documentation that the new facilities are of sufficient size to safely house the maximum anticipated enrollment.



ARTICLE XV: CHARTER SCHOOL PERSONNEL AND EMPLOYMENT

Section 15.1 Relationship

All employees hired by the School shall be employees of the School and, pursuant to HRS §302D-12, shall be subject to HRS Chapter 84 and considered to be an employee of the State of Hawai'i.

Section 15.2 Criminal History Checks

The School shall conduct criminal history checks, administered by the Hawai'i Criminal Justice Data Center in accordance with HRS §846-2.7.

Section 15.3 Collective Bargaining

All employees of the School shall be subject to collective bargaining under HRS §89, and shall comply with the master agreements as negotiated by the State; provided that the School may enter into supplemental collective bargaining agreements. The School shall provide a copy of any supplemental collective bargaining agreement to the Commission and the HIDOE.

Section 15.4 Nondiscrimination

The School, including any employees or agents of the School, shall not engage in any discrimination that is prohibited by any applicable federal, State, or city and county law, including but not limited to HRS §378-2. The School shall include a nondiscrimination policy in its policy manual that complies with BOE Policy 900-1.

Section 15.5 Teacher Credentials

All teachers employed to teach at the School must be licensed pursuant to State licensing requirements and meet any other applicable requirements established by federal and State law, or applicable collective bargaining agreements as such requirements may be amended. Unlicensed teachers may be employed at the School only in emergency and other limited situations, provided that the School meets the requirements outlined in HRS §302A-804, for reporting and filling the vacancies with licensed staff as soon as possible.

Section 15.6 Personnel Data

The School shall maintain accurate and complete personnel and payroll information and shall provide such information to the Commission, in the format and timeframe prescribed by the Commission, as required for the Legislature, HIDOE or any State agency including but not limited to the Department of Budget & Finance, Employees' Retirement System, and the Hawai'i Employer-Union Health Benefits Trust Fund.

Section 15.7 Evaluations

Pursuant to federal and state law and policy, the School shall ensure that the evaluation systems are in compliance with all applicable laws, regulations, and

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policies, including, but not limited to the HDOE's state ESSA plan and collective bargaining requirements.

Section 15.8 Non-Instructional Employees

The School shall ensure all applicable licensing and operating requirements imposed or required under federal, State, or city and county laws, and all applicable accreditation and other standards of quality generally accepted in the fields of activities performed by non-instructional employees and/or agents are complied with and satisfied, as well as any applicable collective bargaining agreements.

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Section 15.9 Personnel Policies

The Governing Board shall adopt and adhere to personnel policies for all school employees. These policies must be made readily accessible from the School's website and a copy submitted to the Commission.

ARTICLE XVIII: RENEWAL, BREACH OF CONTRACT, TERMINATION, AND DISSOLUTION

Section 18.1 Charter Contract Renewal

Pursuant to HRS §302D-18 a Charter Contract may be renewed for a successive five-year terms of duration. Schools seeking to renew their Charter Contract will submit an Application for Contract Renewal in the final year of their contract. The Final Performance Report shall summarize the School's performance record to date as well as the due process afforded to the School through Sections 8-505-10 through 8-505-13, HAR. Each school will have 30 days from the time of receipt of the Final Performance Report to respond to the Performance Report, and to complete and submit the contract renewal application. The Commission will conduct a performance review within 45 days of receiving the School's application for renewal. During the performance review, the Commission will determine whether or not the School has earned a renewal of the charter contract and may apply conditions if applicable.

Conditions for non-renewal are contained in 18.5

Section 18.2 Revocation

The Commission may revoke a charter contract pursuant to HRS §302D-18, and Chapters 8-5-505-15, HAR.

Section 18.3 Breach by the School

Violation of any material provision of this contract may, at the discretion of the Commission, be deemed a breach and be grounds for corrective action up to and including revocation or nonrenewal of this Contract. In making this determination, the Commission will consider the underlying facts and circumstances including, but not limited to, the severity of the violation as well as the frequency of violations and adhere to the applicable procedures contained in HRS §302D-18. Material provisions include, but are not limited to, provisions imposing a requirement to comply with the Commission rules and policies and all applicable laws.

Section 18.4 Termination by the Commission

This Contract may be terminated, after written notice to the School, and the Charter revoked by the Commission in accordance with the provisions of HRS §302D-18 and associated rules and policies.

The Commission may terminate the Contract for any of the following reasons:

1. Any of the grounds provided for under HRS §302D-18, as it exists now or may be amended;
2. A material and substantial violation of any of the terms, conditions, standards, or procedures set forth in the Contract;
3. Failure to meet generally accepted standards of fiscal management and/or school's lack of financial viability;
4. Failure to provide the Commission with access to information and records;
5. Substantial violation of any provision of Applicable Law;
6. Failure to meet the goals, objectives, Performance Frameworks expectations, applicable federal requirements or other terms identified in the Contract;
7. Bankruptcy, insolvency, or substantial delinquency in payments, by the School;

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At the performance review, the Commission may decide not to renew the Charter Contract if it is determined that the school: ¶

1. Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under Chapter 302D, HRS, or the charter school contract. ¶

In evaluating this provision, the Commission will place a heavier emphasis on violations of law or contract when the law or contract provision was designed to protect the health or safety of students or protect equal access and equity of educational opportunities. ¶

2. Failed to meet or make sufficient progress toward performance expectations set forth in the contract. ¶

When evaluating this provision for the Academic Performance Framework, the Commission shall find that sufficient progress was not made toward academic performance expectations when there is a pattern of failing to meet expectations coupled with a downward trend or lack of progress in performance, or there is a pattern of failure to implement corrective action plans in a timely manner. When evaluating this provision for the Organizational and Financial Performance Frameworks, the Commission shall find that progress has not been made when expectations and/or standards have not been met and/or there is a pattern of failure to implement corrective action plans in a timely manner. ¶

3. Failed to meet generally accepted accounting principles of fiscal management. ¶

The Commission shall find failure to meet standards when there is a pattern of fiscal mismanagement in addition to failing to take corrective actions to address significant financial risks identified during the contract period. ¶

4. Substantially violated any material provision of law from which the charter school is not exempted. ¶

When evaluating this provision, the Commission will place a heavier emphasis on violations of law that were designed to protect the health and safety of students and access and equity of educational opportunities. ¶

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8. It is discovered that the Applicant submitted inaccurate, incomplete, or misleading information in its Application or in response to a Commission's request for information or documentation.

This Contract may also be terminated if the Commission determines that there are insufficient funds available for the operation of the School. Insufficient funds shall include, but not be limited to, reduction in, or elimination of, state allocation of funds. It shall also include depletion of grants or other funding sources to a degree that the Commission determines the School is no longer financially viable. Such termination will be effective on the date identified in the notice, which will be 30 days, or sooner, if the Commission determines that a shorter period is warranted.

Section 18.6 Other Remedies

The Commission may impose other appropriate remedies for breach including, but not limited to, imposing sanctions or corrective actions to address apparent deficiencies or noncompliance with legal requirements. These may include a requirement that the School develop and execute a corrective action plan within a specified timeframe. Failure to develop, execute, and/or complete the corrective action plan within the timeframe specified by the Commission will constitute a material and substantial violation of the Contract. This provision shall be implemented in accordance with HRS §302D-5 and §302D-17, the associated rules and guidance issued by the Commission.

Section 18.7 School-Initiated Closure

Should the School choose to terminate this Charter Contract before the end of the Contract term, it must provide the Commission with notice of the decision immediately after it is made, but no later than ninety days before the closure of the school year. Notice shall be made in writing to the Commission.

Section 18.8 Invalid Provision

If any provision of this contract or the legal authority for entering into the Contract is invalidated by the decision of any court or competent jurisdiction, the Commission shall determine whether any of the Contract provisions can be given effect in light of the decision and notify the Governing Board of the extent to which the Contract can remain in effect without the invalid provision. If the Commission determines that the decision implicates the legal authority for entering into the Contract, or materially and substantially alters the Contract provision, the Contract shall terminate on the date that the decision becomes final.

If the legal authority for entering into this Contract is invalidated, then this Contract shall immediately terminate when the Court's order becomes final.

Section 18.9 Financial Insolvency

Pursuant to HRS §302D-28.5, any public charter school that becomes financially insolvent shall be deemed to have surrendered its Charter. For the purpose of this provision, the School shall be determined to be financially insolvent when it is unable to pay its staff when payroll is due. The School shall cooperate with the Commission in ensuring the orderly closure of the School. The School shall comply with the Commission's closure policies and protocol, adopted by the Commission.