

Feedback for Contract 4.0

John Thatcher

A bilateral contract is a contract in which both parties exchange promises to perform. One party's promise serves as consideration for the promise of the other. As a result, each party is an obligor on that party's own promise and an obligee on the other's promise. Charter schools have an expectation that the Commission will abide by the law defining their obligations for developing contracts. The following law is the foundation of the Commission's obligation:

§302D-6 Principles and standards for charter authorizing. All authorizers shall be required to follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility, including:

- (1) Organizational capacity and infrastructure;
- (2) Soliciting and evaluating charter applications;
- (3) Performance contracting;
- (4) Ongoing public charter school oversight and evaluation; and
- (5) Charter and charter contract renewal decision-making.

Authorizers shall carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.

The last paragraph in the law obligates the Commission to follow "nationally recognized principles and standards..." The expectation for charter schools in Hawaii is that the Commission adheres to principles and standards defined by the National Association of Charter School Authorizers (NACSA). The principles and standards NACSA recommends authorizers follow are documented in their publication of *Core Performance Framework and Guidance*. The following excerpts from this document address the overall contract"

"Charter school authorizers are responsible for maintaining high standards for school performance, upholding school autonomy, and protecting student and public interests. Using a performance contract as both a guide and a tool, a quality authorizer maintains high standards and manages charter school performance—not by dictating inputs or controlling processes—but by setting expectations and holding schools accountable for results. A quality authorizer engages in responsible and effective performance management by ensuring that schools have the autonomy to which they are entitled and the public accountability for which they are responsible.

Charter school authorizing begins with a bargain for performance. Authorizers agree to entrust a charter school's governing board with public dollars and public school students and to give it broad autonomy over how it achieves agreed-upon goals. In return, the school's board commits to achieving specified results, managing public funds responsibly, complying with its legal obligations, and providing a quality education to the students in its care.

A key benefit of a school Performance Framework is that it creates clarity about expectations for both authorizers and schools. A significant risk in attempting to use the framework to manage performance, especially when using it to make high-stakes decisions such as renewal or revocation, is if the school or other key stakeholders refuse to endorse the objectivity or appropriateness of its contents."

The foundations of the Core Financial and Organizational Performance Frameworks, according to NACSA, should be based on:

“The Core Financial Performance Framework is intended as a starting point for authorizers to adapt to evaluate charter schools’ financial performance as part of ongoing monitoring and renewal decision making. Charter schools have the autonomy to manage their finances consistent with state and federal law...

The Core Organizational Performance Framework is intended as a starting point for authorizers to adapt to hold charter schools accountable for organizational performance. The Organizational Performance Framework defines the operational standards to which a charter school should be accountable to its authorizer and the public. It is designed to treat all schools as though they are the same only in terms of meeting minimum legal and ethical requirements. This enables schools to retain the flexibility and autonomy to be different in the ways that matter most for a school’s mission, vision, and educational program.”

When the charter schools are offered a contract that adheres to these principles and standards, we will consider the Commission in compliance with §302D-6. The frameworks developed by the Commission in previous versions have been used to manage performance and to make high-stakes decisions such as renewal or revocation. Many charter school leaders in Hawaii have not been able to endorse the objectivity or appropriateness these frameworks and hope the same approach will not be used in Contract 4.0.