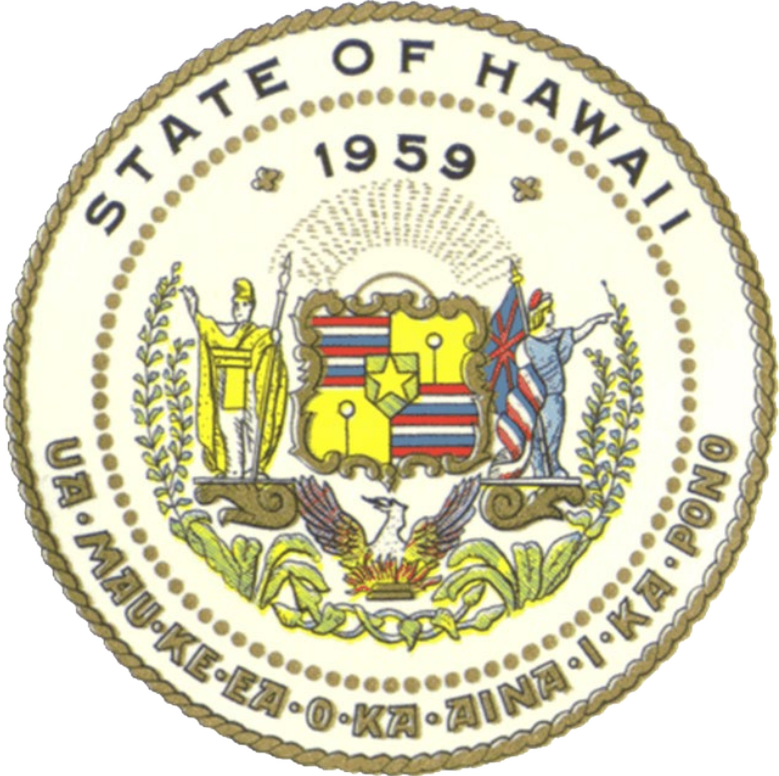


# State Public Charter School Commission



**Public Charter School Contract  
with  
Kihei Charter School  
Effective July 01, 2023**

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## PARTIES

This **CHARTER SCHOOL CONTRACT** (the “**Charter Contract**”) is effective as of July 01, 2023 and entered into by and between the **STATE PUBLIC CHARTER SCHOOL COMMISSION** (the “**Commission**”), an agency of the State of Hawai‘i, whose mission is to authorize high quality public charter schools throughout the state, and to ensure the highest standards of accountability and oversight for charter schools, located at 1164 Bishop Street, Suite 1100, Honolulu, Hawai‘i, 96813, and **KIHEI CHARTER SCHOOL**, (the “**School**”), represented by its Governing Board, whose mailing address P.O. Box 1098, Kihei, HI 96753, (singularly the “Party” and collectively the “Parties”).

## RECITALS

**WHEREAS**, pursuant to Chapter §302D of the Hawai‘i Revised Statutes, (the “**HRS**”), the Commission has the authority to approve quality charter applications to establish a public charter school, to monitor, oversee, evaluate, and renew, not renew and/or revoke charters consistent with the spirit and intent of this chapter;

**WHEREAS**, on December 15, 2022, the School submitted a Renewal Application following HRS §302D-18 to continue to operate as a public charter school;

**WHEREAS**, the Commission has determined: (i) that the Renewal Application satisfies the requirements found in HRS Chapter 302D and any other requirements set by the Commission as allowed by statute; and (ii) approved the Renewal Application subject to the execution of this Contract by and between the Commission and the School as represented by their Governing Board;

**WHEREAS**, HRS §302D-12 gives broad decision-making authority over school operations to the Governing Board of the School (the “**Governing Board**”), including oversight and responsibility for the financial, organizational, and academic viability of the Charter School, implementation of the Charter Contract, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws;

**WHEREAS**, the Commission and the School seek to foster a cooperative and responsive relationship, to commit to act in the best interests of the students, families, and communities that they serve by contributing meaningfully to the continued improvement of Hawai‘i’s public education system with a high quality school to meet educational needs, and innovative practices that reflect Hawai‘i’s values;

**NOW, THEREFORE**, in consideration of the mutual covenants, representations, warranties, provisions, and agreements contained herein, the parties agree as follows:



## **ARTICLE I: PURPOSE AND TERM OF CONTRACT**

### **Section 1.1 Purpose**

This Contract outlines the roles, powers, responsibilities, and performance expectations for each party to this Charter Contract in the renewal and operation of Kihei Charter School, (the “**School**”). Both parties must comply with all of the terms and provisions of this Charter School Contract (the “**Charter Contract**”) and all applicable rules, regulations and laws.

### **Section 1.2 Term of Contract**

This is a five (5) year Contract and is effective as of July 01, 2023, and will remain in full force and effect through June 30, 2028, unless sooner revoked or terminated in accordance with HRS §302D-18 and as provided herein.

## ARTICLE II: SCHOOL CHARTER AND MISSION

### Section 2.1 Charter

The School shall establish a public charter school in the State of Hawai'i on the island(s) listed in the table below. The School operates their Educational Program in the manner and at the facilities located at the address(es) indicated in the table below along with the grades served in accordance with this Charter Contract, the Hawai'i Revised Statutes, and other applicable federal, state, and county laws, ordinances, codes, rules, and regulations. Enrollment in the School shall be open to all students of ages and grades as set forth in HRS Chapter 302D and Article IX of this Charter Contract, who are residents of the State of Hawai'i. This Charter Contract shall constitute the School's charter and shall be binding on the School, the Governing Board, and the Commission.

Island	Brick and Mortar Address	Grade Levels Served
Not Applicable	Not Applicable	Not Applicable

Island	Blended Learning Program Instructional Site	Grade Levels Served
Maui	650 Lipoa Parkway Kihei, HI 96753	K-12

Island	Virtual Learning Program Non-Instructional Site	Grade Levels Served
Not Applicable	Not Applicable	Not Applicable

Education Service Provider (ESP)	Contact Information of ESP	Effective Dates of ESP
Not applicable	Not applicable	Not applicable

Island	Non-Instructional Site / Use
Not applicable	Not applicable

**Section 2.2 Mission Statement**

The School shall operate in accordance with its mission statement: To conceptualize, organize, and build innovative learning environments with custom designed educational programs that will prepare students for a satisfying and productive life in the 21st Century.

**Section 2.3 Amendment to Charter Contract**

The School shall submit for the Commission's approval The SPCSC Request To Amend Charter Contract Form for any proposed changes to the provisions of this Charter Contract, except that a School shall not be required to provide the Commission with a request to amend the Charter Contract for any proposed changes to its Bylaws. Failure to obtain Commission's approval shall be considered a material breach of this Charter Contract and subject to Non-renewal or Revocation proceedings pursuant to Article XVIII below.

### ARTICLE III: DEFINITIONS

For the purposes of this Contract, and in addition to the terms defined throughout this Charter Contract, each of the following words or expressions shall have the meaning set forth in this section:

**“Applicable Law”** - all federal, state, and county laws, ordinances, codes, rules, and regulations applicable to the operation of a charter school in the State of Hawai‘i, as they currently exist or are amended throughout the duration of this Charter Contract. When a provision of this Charter Contract requires the School to comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, or some combination thereof, without specific reference or citation, the language encompasses those laws that are applicable to charter schools. If there is a disagreement about what laws are applicable or the extent to which a given law is applicable, the parties shall engage in good faith discussions in an effort to determine applicability and the associated scope. However, the Commission shall be the ultimate authority regarding what laws apply to the charter schools it has authorized and the extent to which they apply.

**“Asset”** - land, infrastructure, improvements to land, buildings, leasehold improvements, vehicles, furnishings, equipment, collections, and all other tangible and intangible assets that are used in school operations, including “Small and Attractive Assets”.

**“Authorizer”**- an entity established under HRS Chapter 302D with chartering authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts. The term may include the Commission when appropriate.

**“Blended Learning Program”** - a combination of online educational materials and opportunities for interaction online and in-person on-site instruction, requiring the use of a school facility or authorized location. A Blended Learning Program shall adhere to the Commission’s Online Virtual and Blended Learning Guidelines, as amended, and can be found on the Commission’s official website.

**“Board of Education”** - the Hawai‘i Board of Education (**BOE**) which has authority to promulgate rules for educational policy.

**“Charter Contract”** - in addition to the definition set forth in HRS §302D-1, the Terms and Conditions, and Exhibits.

**“Commission”** - the State Public Charter School Commission established pursuant to HRS §302D-3 as a statewide authorizer. The term Commission includes the Commission members, Commission’s staff, employees, or other designee.

**“Department”** - the Hawai‘i Department of Education (**HIDOE**).

**“Educational Service Provider” (ESP)** - a non-profit or for-profit entity that is contracted by the School to provide services that would otherwise be handled by employees of the School, which include, but are not limited to, operational back office functions and services related to the instructional design or operation of the School, in return for fees.

**“English Language Arts” (ELA)** - the instruction and assessment of English Language Arts/Literacy in Hawai‘i’s public charter schools.

**“Governing Board”** - in addition to the definition set forth in HRS §302D-1, the independent board of the School that must at all times be appointed, operated, and governed in accordance with its Bylaws, the Charter School Application, legal obligations, and this Charter Contract. The Governing Board is responsible for the financial, organizational, and academic viability of the School; possesses the independent authority to determine the organization and management of the School, the curriculum, and the instructional methods; has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees and is considered the employer of School employees for purposes of HRS Chapters 76, 78 and 89; and ensures compliance with all applicable federal, State, and County laws, codes and ordinances. For purposes of this Charter Contract, the School and School Governing Board are one and the same and are responsible for compliance with all legal requirements to which the School is subject under Applicable Law and this Charter Contract.

**“Hawaiian Language Arts” (HLA)** - the instruction and assessment of Hawaiian Language Arts within Kaiapuni Educational Programs authorized by the Commission to operate Hawaiian Language Medium-Immersion Public Charter Schools. As referenced in BOE Policy 105-8, every student within the State of Hawai‘i’s public school system should have reasonable access to the Kaiapuni Educational Program.

**“Hawai‘i Administrative Rules (HAR)”** - the currently effective regulations promulgated by the State agencies of Hawai‘i.

**“Hawai‘i Revised Statutes (HRS)”** - the current effective laws of Hawai‘i.

**“Known” or “Knowledge”** - a representative of the School’s Governing Board and/or the School is aware of a fact, circumstance, or result, or has information that would lead a reasonable person in the same situation to believe that the facts, circumstances, or results exist. When knowledge triggers or impacts a legal responsibility or obligation of the School’s Governing Board or School, then failure to act in accordance with those legal responsibilities or obligations may be considered a material and substantial violation of this Charter Contract.

**“Material”** - a provision or term that concerns significant issues, subject matter, and contractual expectations, and is of such a nature and importance to be considered essential to the agreement, decision making and or performance under this Charter Contract by both parties.

**“Mission Aligned Initiative (MAI)”** - the mission-focused educational goal(s) measured

through documentation and a written narrative as part of the Academic Performance Framework.

**“Performance Framework”** - the assessment tool that sets forth the performance indicators, measures, and metrics used by the Commission to guide their evaluation of the School’s academic, organizational, and financial performance under this Charter Contract.

**“Public Charter School”** - a public school and their respective Governing Board authorized by the Commission and holding a current charter contract to operate as a Charter School under HRS Chapter 302D, with the flexibility and independent authority with regard to curriculum, facilities management, and personnel management.

**“School Board” or “Charter School Board”** - the “Governing Board”, as used in this Charter Contract and defined in HRS Chapter 302D. For purposes of this Charter Contract, the School, School Board, Charter School Board, Governing Board, and Applicant are one and the same and are responsible for compliance with all legal requirements to which the Charter School is subject under Applicable Law and this Charter Contract.

**“School Community”** - the school administration, teachers, non-certificated staff, students, parents, other community members, and members of the Governing Board.

**“Site-Relevant Diagnostics”** - a brief assessment that is typically administered three times per year (fall, winter, and spring) to determine students’ level of knowledge, skills, and understandings. All students on campus participate in the process, including those identified as needing special education or gifted services.

**“Small and Attractive Assets”** – theft sensitive items that are easily converted to personal use or easily pawned, including personal computer equipment, photographic equipment, video equipment, television sets, and communication equipment.

**“Virtual Learning Program”** - instruction that takes place in an online environment. A Virtual Learning Program shall adhere to the Commission’s Online Virtual and Blended Learning Guidelines, as amended, and can be found on the Commission’s official website.

## **ARTICLE IV: GOVERNANCE OF SCHOOL**

### **Section 4.1 Governing Board Responsibilities**

The Governing Board, as defined by HRS Chapter 302D is a party to this Charter Contract with the Commission, is responsible for the oversight of the school including but not limited to academic outcomes, operations, and financial management. The Governing Board is also responsible for ensuring compliance with the Applicable Laws and managing any contracts with administrative personnel and/or Educational Service Providers.

### **Section 4.2 State Code of Ethics and Code of Conduct**

Because charter schools are public schools, Governing Board and School employees shall comply with the State Code of Ethics, codified in HRS Chapter 84. The School's Governing Board, employees, contractors, and volunteers must also comply with the Code of Conduct developed and implemented by the Commission, as required in BOE Policy 201-1.

### **Section 4.3 Governing Board Membership**

- (a). The Governing Board shall have a consistent process for and maintain records of the selection of Governing Board Members. The selection records shall include the candidate's qualifications to serve, and the Governing Board's decision on the Board Member's application.
- (b). The Governing Board members should meet the individual standards set in HRS §302D-12, and, collectively possess the knowledge, experience, and skills to effectively oversee the School's academic, organizational, and financial program.

### **Section 4.4 Governing Board Meetings**

The School's Governing Board is a public body accountable to the authorizer, to the federal and state government, and to the community their School serves. Pursuant to HRS §302D-12, the Governing Board shall hold meetings open to the public. To enable public attendance and participation in person or through remote technology, Governing Board meetings must be held in a way sufficient to accommodate public participation.

### **Section 4.5 Governing Board Reporting**

To ensure the School Community can attend and participate in Governing Board meetings, in accordance with HRS §302D-12, the Governing Board shall have the following available in a public area in the School's office, accessible for review during regular business hours, and posted on the School's official website:

- (a). Governing Board meeting notices and agendas as specified in HRS §302D-12;
- (b). Written Governing Board meeting minutes as specified in HRS §302D-12; and
- (c). A list of the current names and contact information of the Governing Board's members and officers; and
- (d). The schedule of Governing Board meetings by September 1 of each year.

The Commission may regularly review the School's website to ensure compliance with these provisions and to verify that other information on the website is accurate, and complies with this Charter Contract and applicable laws. Failure to meet statutory requirements will result in the school submitting its Governing Board meeting notices, agenda, and minutes directly to the Commission. Noncompliance with this section may result in a **Notice of Concern**.

#### **Section 4.6 School Governing Board Member Information**

In order to facilitate regular and emergency communications, the Governing Board shall provide the Commission an updated list of all current member names and contact information which will include the following for each member:

- (a). Name, position held, term dates (mm/dd/yy - mm/dd/yy) with board;
- (b). Public facing phone number and email address; and
- (c). Emergency contact phone number and email, (Commission use only, not for public posting).

Providing a generic email address or phone number for all members will not satisfy this requirement. This information shall be provided within fourteen (14) business days of the start of the school year and kept updated thereafter. When vacancies occur and new members are added, the Governing Board shall update and submit The SPCSC School Governing Board Member Information Form to the Commission including a copy of the minutes of the meeting where the new member was approved, within fourteen (14) business days of the new member being seated.



## **ARTICLE V: SCHOOL PERFORMANCE**

### **Section 5.1 Performance Frameworks**

The School's academic, organizational, and financial performance under this Charter Contract shall be evaluated using the Academic, Organizational, and Financial Performance Frameworks, respectively, all are collectively attached as Exhibit "A," to this Charter Contract. The specific terms, forms, and requirements of the Performance Frameworks, including any required indicators, measures, metrics, and targets, are maintained and disseminated by the Commission and shall be binding on the School. Material changes to the Performance Frameworks shall require approval by the Commission.

- (a). The Commission will monitor and annually report on the School's progress as set out in the Performance Frameworks.
- (b). The evaluation of the School under the Performance Frameworks shall provide guidance for the Commission to take appropriate corrective action, to renew, revoke, terminate or take other action on the Charter Contract.
- (c). The Commission reserves the right to amend the Charter School Performance Frameworks set out in Exhibit "A" in the event of legal or statutory changes to the requirements in the Performance Frameworks in Exhibit "A". The School will be required to comply with any amendments of the Charter School Performance Frameworks that are required in the event of any such legal or statutory changes.
- (d). If the School does not meet the performance standards in the Performance Frameworks, it may receive a **Notice of Concern** pursuant to Section 17.7 of this Charter Contract.
- (e). Failure to meet or make sufficient progress toward meeting the performance standards may be sufficient justification to revoke or non-renew the School's Charter Contract.
- (f). The Commission is not required to allow the school the opportunity to remedy the problem if unsatisfactory review warrants revocation in accord with HRS §302D-17(c) and/or HRS §302D-18(g).

### **Section 5.2 Modification to Performance Frameworks**

The Parties acknowledge that specific terms, forms, and requirements of the Performance Frameworks may be modified to the extent required to align with changes to applicable law, federal or state accountability requirements as set forth in law or policies, or circumstances that make assessment based on the existing Performance Frameworks impracticable.

### **Section 5.3 Data and Reports**

The School shall designate the Commission an authorized representative for FERPA-permitted activities and promptly provide to the Commission, upon request, any information (including personally identifiable student information), data, documentation, evidence and reports necessary for the Commission to efficiently meet its oversight and

reporting obligations as outlined in HRS §302D-17. When the request is for on-site inspection of records, prompt is defined as immediate access. If the request is for reproduction of records, then the Commission will include a reasonable timeframe to allow the School to provide the requested records and adherence to this timeframe will be considered prompt.

The School shall submit all data, worksheets, reports, and other information required by HIDOE and the Commission in accordance with any deadlines imposed. Failure to provide reports, data, documentation, or evidence by the date due is a material violation of the Charter Contract.

The Commission shall maintain personally identifiable student information received under this section for as long as it is in operation as a state charter school authorizer, after which time the data will be destroyed.

#### **Section 5.4 Multiple School Locations and Oversight**

Schools operating on more than one campus or classrooms in multiple locations, other than the main site, are required to address identified Performance Frameworks concerns or deficiencies at all of its locations.

#### **Section 5.5 Federal and State Accountability System**

The School shall be subject to the Federal and State public school accountability system and comply with all requirements related to the State assessment for all public schools. The School shall also be subject to mandatory reporting requirements from the U.S. Department of Education. The School shall administer all student testing as required by applicable federal and state laws, rules, policies, and procedures.

## **ARTICLE VI: ACADEMIC PERFORMANCE**

### **Section 6.1 Ages and Grades Served**

The School shall provide instruction to students as articulated in Section 2.1 of this Charter Contract.

### **Section 6.2 Material Elements of the Educational Program**

The School shall, at all times, operate in a manner consistent with its Educational Program as identified in Section 2.1 of this Charter Contract. Revisions to any of the elements in Section 2.1 of this Charter Contract shall be considered a material change to the Charter Contract and shall require prior written approval by the Commission. This approval shall be informed by an analysis of the School's performance guided by the Performance Frameworks and this Charter Contract.

### **Section 6.3 Academic Standards**

As determined by BOE Policy 102-3, as may be amended, the School shall implement the statewide adopted content and performance standards.

The School shall retain the autonomy to select a particular curricular and/or instructional approach consistent with applicable statewide content and performance standards.

### **Section 6.4 Curriculum**

The School shall have exclusive control over its instructional methods, consistent with HRS §302D-12. The School shall submit to the Commission The SPCSC Request to Amend Charter Contract Form for any material changes to the Charter Contract such as the School's mission and/or vision that may occur as a result of the School's change in curriculum. This request to amend Charter Contract shall be submitted no later than April 1 prior to the Academic Year in which the modified curriculum will take effect. The School shall provide the Commission with any supporting information or documents requested by the Commission in connection with The SPCSC Request to Amend Charter Contract Form. A change in textbooks, formative assessments, or other instructional resources shall not be deemed a material change.

### **Section 6.5 Virtual and Blended Programs**

Virtual and blended learning programs authorized by the Commission shall adhere to the Commission's Online Virtual and Blended Learning Guidelines, as amended, and can be found on the Commission's official website.

### **Section 6.6 Students with Disabilities**

The Department of Education (the "HIDOE") is the State of Hawai'i's "state education agency" (the "SEA") and "local education agency" (the "LEA") for purposes of compliance with the Individuals with Disabilities Education Act (the "IDEA"). All public schools, including charter schools, are part of and fall under the LEA. As such, the School shall comply with all applicable federal and state laws, rules, procedures, and directives regarding the education of students with disabilities, including but not limited to HAR Chapter 8-60.

The HIDOE is statutorily responsible for the provision of a free and appropriate public education as defined by Section 504 of the Rehabilitation Act of 1973, (34 C.F.R. Part 104.4), (“**Section 504**”) and IDEA. If the School enrolls special education students or identifies one of its students as eligible for special education, the School shall be responsible for providing the educational and related services that are required by a student’s individualized education program (the “**IEP**”) pursuant to HRS §302D-30.

The programs and services for the student shall be determined collaboratively by the student’s IEP team, which includes the student’s parents and or legal guardian(s).

### **Section 6.7 Special Education Guidelines**

The Commission shall collaborate with HIDOE to refine and improve upon the guidelines issued by HIDOE for the provision of special education services and resources to each charter school. The School shall adhere to the Hawaii State Public Charter School Guidelines for the Implementation of Individuals with Disabilities Education Act of 2004 issued by HIDOE.

### **Section 6.8 Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008**

The School shall comply with Section 504 and the Americans with Disabilities Act Amendments Act of 2008, Citation 29 C.F.R. Part 1630; 42 U.S.C. 12101 et seq.; Pub. L. 110-325, (the “**ADAAA**”) and all related HIDOE rules, policies, and procedures in its general curriculum, including but not limited to the implementation of any Section 504 plan that has been developed for a student. The HIDOE may provide training, consultation, and advice to the School as needed with regard to Section 504 compliance, including legal interpretations, recommendations for intervention strategies, and assistance in conducting Section 504 plan and review meetings.

The School shall provide services and accommodations to students with disabilities in accordance with part B of the Individuals with Disabilities Education Act (20 U.S.C. §1411 *et seq.*), the Americans with Disabilities Act Amendments Act of 2008, Citation 29 C.F.R. Part 1630; 42 U.S.C. 12101 et seq.; Pub. L. 110-325, Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. §794), and any other federal requirements concerning the education of students with disabilities.

### **Section 6.9 English Learners**

The School shall provide services to students who are English Learners in compliance with all applicable federal and state laws, regulations, rules, court orders, policies, procedures, and guidance, to ensure linguistic accessibility to the School's educational program. Should the HIDOE continue to provide the Commission funding to administer this technical assistance, the Commission shall provide the School such technical assistance. The School shall also assist Immigrant Children and Youth, as defined in Section 3301(6), Title III, Elementary and Secondary Education Act, in meeting the State academic content and student academic achievement standards that all public school students are expected to meet.

### **Section 6.10 Academic Performance Framework**

The Academic Performance Framework (“**APF**”) adopted by the Commission and attached in Exhibit “A” outlines the measures by which a charter school’s academic performance will be evaluated for purposes of annual monitoring, potential interventions and plans for improvement, and renewal and revocation decisions.

### **Section 6.11 Academic Performance Indicators**

The APF, is comprised of four (4) indicators, two mandatory indicators and two supplemental indicators as follows:

- (a). **Mission Aligned Initiative (MAI) (Mandatory)** - measures mission-focused educational goal(s) through documentation and a written narrative to be submitted to the Commission.
- (b). **Standardized Assessments (Mandatory HRS §302D-16)**
  - i. **Absolute Achievement** - shows how students have performed at a single point in time (a snapshot) on particular assessments (including but not limited to state standardized assessments)
  - ii. **Growth - Median SGP** - examines how individual students have improved over time on a particular assessment (including but not limited to state standardized assessments).
  - iii. **Achievement Gaps** - difference in LA and Math proficiency rates for high needs (economically disadvantaged, special needs, English Learners) and non-high needs students
  - iv. **Post-Secondary Readiness and Success** - percentage of students reading at, or near grade level, and/or promotion rate, depending on grade level.
  - v. **Chronic Absenteeism** - based on the number of students absent (excused/unexcused) for fifteen (15) or more days during the **Full School Year (“FSY”)** period. For secondary school students, a student is considered absent if he/she did not attend more than fifty-percent (50%) of scheduled classes that day.
  - vi. **School Climate** - percentage of students who feel positive about their school (Data from State’s accountability system).
- (c). **Comparative Performance (Supplemental)** - provides an opportunity for a public charter school to compare its performance with other public schools.
- (d). **School Reported Data on Site-Relevant Diagnostics (Supplemental)**- depicts student achievement/growth at critical points throughout the school year utilizing site-relevant diagnostics.

### **Section 6.12 Academic Performance Evaluation**

The School shall:

- (a). Provide a comprehensive educational program by operating in a manner consistent with this Charter Contract that aligns with the state academic standards prescribed by the HIDOE for the grades approved to operate.

- (b). Participate in the State-required assessments as designated by the HIDOE or the U.S. Department of Education.
- (c). Report annually on the School's Mission Aligned Initiative ("**MAI**")
- (d). Meet or make substantial progress toward achievement of the performance standards identified in the Academic Performance Framework. If the School fails to meet its academic performance indicators in any year it may receive a **Notice of Concern** pursuant to Section 17.7. This section is to be read in conjunction with Section 6.13.

### **Section 6.13 Academic Review and Renewal**

- (a). The School will be deemed to have met its goals and academic achievement expectations for Charter review and renewal if the School has earned no less than an average of 73 points during the first four years of this Charter Contract. The annual APF is based on a 100-point scale with the possibility of an additional 15 supplemental points.
- (b). Improvement Provision: In cases where a school has not achieved the above threshold, the Commission may, at its discretion, determine that a school has met its goals and student achievement expectations if the School has demonstrated consistent improvement on overall scores over the first four years of this Charter Contract.

## **ARTICLE VII: ORGANIZATIONAL PERFORMANCE**

### **Section 7.1 Organizational Framework**

The Organizational Performance Framework is comprised of the following indicators:

- (a). School Charter Mission
- (b). Governance
- (c). School Performance
- (d). Academic Performance
- (e). Financial Management
- (f). Admission, Enrollment, and Attendance
- (g). General Operation of School
- (h). Educational Service Provider
- (i). Health and Safety
- (j). Student Records and Data
- (k). School Facilities
- (l). Personnel and Employment
- (m). Insurance and Legal Liabilities
- (n). Commission Oversight and Responsibilities
- (o). Notice

### **Section 7.2 Organizational Performance Evaluation**

The School shall:

- (a). Comply with applicable laws, rules, regulations, and provisions of the charter contract.
- (b). Timely complete and submit all necessary document requests from the Commission in its monitoring and oversight.
- (c). Create and implement policies and procedures following general practices and guidelines to manage school operations.
- (d). Maintain and make accessible the policies and procedures as listed but not limited to those found in Section 10.8 School Policies.
- (e). Comply with all material legal, statutory, regulatory, or contractual requirements contained in the charter contract that are not otherwise stated herein.
- (f). Meet the requirements by other entities to which the school is accountable in addition to the Commission.
- (g). Comply with the Commission as they conduct or require oversight activities including, but not limited to, inquiries, records review, investigations and site visits consistent with HRS §302D-17.

### **Section 7.3 Organizational Performance Review and Renewal**

Schools will receive an evaluation of “Meets” or, “Does Not Meet”, for each of the indicators listed in Exhibit “A”.

The School will be deemed to have met its organizational requirements and expectations for review and renewal if the School receives an evaluation of “Meets” in the indicators listed in the above Section 7.1 of this Charter Contract.

Schools that receive an evaluation of “Does Not Meet” in any category will receive a **Notice of Concern** requiring the SPCSC Corrective Action Plan Form to be submitted to the Commission. Three or more successive years of “Does Not Meet” evaluations in the same category may result in a **Notice of Deficiency** per Section 17.9.



## **ARTICLE VIII: FINANCIAL PERFORMANCE**

### **Section 8.1. Fiscal Responsibilities**

The School shall comply with all applicable laws, including but not limited to, state financial and budget rules, regulations, and financial reporting requirements, as well as the requirements contained in the Performance Frameworks, (see Exhibit "A"). The School shall operate, maintain accurate-comprehensive financial records, and practice governmental accounting in accordance with Generally Accepted Accounting Principles ("GAAP") and other generally accepted standards of fiscal management and sound business practices to use public funds in a fiscally responsible manner.

### **Section 8.2 Financial Oversight**

The Commission shall have the authority to conduct or require appropriate inquiries, financial reviews, audits, and investigations pursuant to HRS §302D-17, so long as those activities are consistent with that statute and adhere to the terms of this Charter Contract.

The School shall, upon request, provide the Commission with the name of each financial institution with which it holds an account and all relevant account information.

### **Section 8.3 Fiscal Year**

The School shall adhere to the State fiscal year which begins on July 1 and ends on June 30 of the subsequent calendar year.

### **Section 8.4 Financial Terms and Concepts**

All financial terms and concepts used in this Charter Contract shall conform and adhere to the definitions and principles in GAAP, as may be amended by the Financial Accounting Standards Board ("FASB").

### **Section 8.5 Financial Management Policies**

The School's Governing Board shall develop and adhere to policies for the School's financial management. The School's current policies must be posted on the School's official website. These policies shall allow the School to maintain and implement appropriate governance and management procedures and financial controls which shall include, but not be limited to:

- (a). Development and monitoring of annual budgets;
- (b). Implementation of payroll procedures that adhere to collective bargaining requirements and state leave policies;
- (c). Maintenance of asset registers and financial procedures for grants in accordance with applicable federal and state law;
- (d). Preparation, review, and monitoring of all financial reporting requirements; and
- (e). Implementation of internal accounting procedures and controls for receipts, disbursements, purchases, payroll, inventory, use of credit cards, debit cards, and fixed assets.

### **Section 8.6 Procurement**

Pursuant to HRS §§302D-25 and 302D-12, while the School and its Governing Board shall be exempt from HRS Chapter 103D, the Governing Board shall develop a policy for the procurement of goods, services, and construction consistent with the goals of public accountability and public procurement practices. The Governing Board shall develop procedures to monitor the School's adherence to this policy. The School's current policies must be posted on the School's official website.

### **Section 8.7 Quarterly Reports**

The School shall prepare quarterly financial reports that shall be submitted to the Commission in a form that will be determined by the Commission. Within thirty (30) days of the end of the first, second, and third quarters, the School shall submit the quarterly report to the Commission. Within thirty (30) days after the end of the fiscal year, the School shall submit its year-end report to the Commission.

### **Section 8.8 Annual Budgets**

The School shall adopt an annual budget for the upcoming fiscal year approved by the Governing Board. The School will submit to the Commission the School's adopted budget within forty-five (45) days of the final adoption of the state budget.

Should the school need to revise its adopted annual budget, the school shall submit this revised budget to the Commission, once approved by the Governing Board, no later than May 15 of each fiscal year.

### **Section 8.9 Annual Audits**

Each fiscal year, the School shall provide for an independent annual financial audit pursuant to HRS §302D-32.

The School shall submit the completed audit by November 1 of each fiscal year. The Commission, with reasonable notice to the School, may change this deadline depending on circumstances that allow adequate time for the Commission to meet federal and state financial reporting requirements.

### **Section 8.10 Maintenance of Financial Records and Information**

The School shall maintain all financial information, physical and electronic, in accordance with the requirements of the Department of Accounting and General Services, Archives Division, Records Management Branch.

### **Section 8.11 Assets**

The School shall maintain a complete and current inventory of all of its property and shall update the inventory annually. The School shall take all necessary precautions to safeguard assets acquired with public funds.

### **Section 8.12 Chart of Accounts**

The Commission may require the School to follow a uniform chart of accounts should it be required for federal or state financial reporting requirements; provided that the Commission shall provide a reasonable time period for the School to convert to such a chart of accounts.

### **Section 8.13 Transfer of Funds to Affiliated Non-profit or Educational Service Provider**

The School **shall not** transfer public funds to any affiliated non-profit or educational service provider except for legitimate and reasonable payments from the School to the affiliated non-profit or educational service provider pursuant to a written legal agreement. The School shall provide the Commission a copy of any newly executed agreement between the affiliated non-profit or educational service provider and the School within fourteen (14) business days of execution.

Under no circumstances shall school funds be used as a line of credit or short term loan to any affiliated non-profit or educational service provider. Assets, funds, liabilities and financial records of the School shall be kept separate from assets, funds, liabilities, and financial records of any affiliated non-profit or educational service provider unless approved in writing by the Commission.

### **Section 8.14 Financing Agreements and Lines of Credit**

The School shall comply with HRS Chapter 37D, relating to financing agreements, which requires the approval of the Attorney General and the director of the Department of Budget and Finance.

Any credit cards or other lines of credit issued to the School and used by School staff must be paid in full each month, unless other arrangements have been determined and approved as provided for in HRS Chapter 37D. Use of credit and debit cards issued to the School must be covered by the financial management policies required by Section 8.4 of this Charter Contract.

### **Section 8.15 Per-pupil Funding**

The general fund per-pupil funding is contingent upon legislative appropriation and allocation of funds. If the Legislature fails to appropriate sufficient monies or if the appropriation is reduced by the Governor or by any other means and the effect of such non-appropriation or reduction is to provide insufficient monies for the continuation of the School, this Charter Contract shall terminate on the last day of the fiscal year for which sufficient funds are available or within sixty (60) days of the closure of the School.

The Commission shall distribute the School's per-pupil allocation each fiscal year pursuant to HRS §302D-28, and shall provide the School with the calculations used to

determine the per-pupil amount each year. All funds distributed to the School from the Commission shall be used solely for the School's educational purposes as appropriated by the Legislature, and the School shall have discretion to determine how such funding shall be allocated at the school level to serve those purposes subject to applicable laws and this Contract.

### **Section 8.16 Enrollment Count Reports for Per-pupil Funding**

The School shall provide the Commission projected enrollment counts as required for funding, budgeting, and reporting purposes by May 15. The Commission shall obtain actual enrollment counts as of October 15 from HIDOE to determine the School's actual per-pupil funding for that fiscal year.

### **Section 8.17 Adjustments to Per-pupil Funding**

- (a). The Commission's disbursement of per-pupil funds may be adjusted to:
  - i. Reconcile projected versus actual enrollment counts;
  - ii. Adjust the per-pupil amount due to restriction by the Governor or other reduction action;
  - iii. Adjust the actual enrollment count based on an audit of pupil counts and per pupil revenue that impact the funding received by the School;
  - iv. Pay for system-wide costs from state or federal agencies that cannot be individually billed to each individual School; or
  - v. Withhold funds due to non-compliance in accordance with HRS §302D-28.
- (b). The Commission shall have the discretion to determine whether to make an adjustment by:
  - i. Reconciling the adjusted amount in a subsequent disbursement to the School; or
  - ii. Either making payment to the School or requiring reimbursement from the School with at least thirty (30) days' written notice by the Commission.

### **Section 8.18 Facility Funds**

In each year in which funds are appropriated for charter school facility purposes, the Commission shall allocate the funds among eligible charter schools, as provided for in HRS §302D-29.5. All funds distributed to the School shall be restricted to the purposes of the appropriation.

### **Section 8.19 Federal Funding**

Pursuant to HRS §302D-28, the School shall be eligible for all federal financial support to the same extent as all other public schools. The School shall comply with all applicable federal and state laws and regulations, including programmatic and fiscal requirements required by specific individual grant programs. The Commission shall distribute federal funds to the School in accordance with applicable federal and state rules and regulations. The Commission shall make the allocation methods publicly available.

### **Section 8.20 Additional Funds**

The School may accept monetary contributions or grants and shall comply with all applicable federal or state laws regarding such monetary contributions or grants. These

monetary contributions or grants should be appropriately noted in any applicable financial reporting requirements for the federal or state government and/or Commission.

**Section 8.21 Fees**

To the extent permitted by HRS §302D-28, the School may charge reasonable fees for co-curricular activities. The School may charge reasonable fees to the extent permitted by law or other payment for after school programs, field trips, or co-curricular activities.

## **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**

Pursuant to HRS §302D-28, the School may not assess tuition, contributions, or fees of any kind as a condition of admission, enrollment, or attendance. The School may charge reasonable fees to the extent permitted by law or other payment for after school programs, field trips, or co-curricular activities.

### **Section 9.3 Applications and Admissions**

The School shall comply with its admission policies and procedures as approved by the Commission. If the number of applicants exceeds the School's capacity of a program, class, grade level, or building, the School shall select students to enroll using a public lottery that shall be publicly noticed; provided that if the School is a conversion charter school serving as the home school for the HIDOE district, then the School shall follow HRS §302D-34(c).

The School shall submit a description of its current lottery process to the Commission and shall provide notice to the Commission if there is a material change made to the current lottery process. The School shall provide the Commission with a written notice of any material change to the lottery process at least thirty (30) days prior to the date of the proposed implementation for comment. The admission policies and procedures, including the lottery procedure, must be posted on the School's official website.

### **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 of this Charter Contract above who are residents of the State of Hawai'i. Pursuant to HRS §302D-34, 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, 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 Section 2.1 of this Charter Contract.

### **Section 9.5 Amendment to Enrollment**

The School shall submit to the Commission The SPCSC Request to Amend Charter Contract Form 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. The School shall maintain accurate and complete enrollment data.

### **Section 9.6 Attendance**

The School shall maintain and adhere to its attendance policy. The School's current policy must be posted on the School's official website, as described in Section 10.8 of this Charter Contract. The School shall maintain daily records of student attendance and absences.

### **Section 9.7 Attendance: Virtual and/or Blended Learning Program**

If the School has a virtual or blended learning program, the School's attendance policy shall include:

- (a). Procedures to account for student attendance online; and
- (b). 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 9.8 Right to Remain**

The School shall comply with the 42 U.S. 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-1132, 302A-1135, and 571-11, the provisions of the McKinney-Vento Act, and Commission policy.

### **Section 9.9 Dismissal**

The School shall not dismiss or transfer a student involuntarily, unless the dismissal or transfer is 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 or transfer of a student with a disability shall comply with the requirements of HAR Chapter 8-60.

### **Section 9.10 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.

## **ARTICLE X: GENERAL OPERATION OF SCHOOL**

### **Section 10.1 Student Records**

The School shall maintain student records for current and former students in accordance with the requirements of federal and state law, including the Family Education Rights and Privacy Act, 20 U.S.C. §1232g (“**FERPA**”), as may be amended from time to time.

### **Section 10.2 Records Retention**

The School shall comply with all applicable federal and state requirements pertaining to the retention of all School records. As a state entity, the School shall comply with the policies and guidelines of the Department of Accounting and General Services, Archives Division, Records Management Branch, with regard to the retention and disposal of government records.

### **Section 10.3 Open Records Law**

The School shall comply with HRS Chapter 92F, the Uniform Information Practices Act.

### **Section 10.4 Student Conduct and Discipline**

The School shall adopt, update, and adhere to written policies concerning standards of student conduct and discipline which shall comply with all applicable federal and state laws. The School shall provide this policy to parent(s)/legal guardian(s) and students at the start of each school year. The School’s current policies must be posted on the School’s official website, as described in Section 10.8 of this Charter Contract.

### **Section 10.5 Punishment of Pupils**

Pursuant to HRS §302A-1141, no physical punishment of any kind may be inflicted upon any pupil.

### **Section 10.6 Complaints Process**

The School shall adopt and adhere to a process for resolving public complaints which shall include an opportunity for complainants to be heard by the School’s Governing Board. For matters concerning the operations and administration of the School, the decision by the School's Governing Board shall be considered final, except where the complaint pertains to a possible violation of any law or breach of this Charter Contract. In the case of a possible violation of law or breach of the Charter Contract, the Commission or other appropriate state agency may investigate the validity of the complaint to determine whether additional actions are needed. The complaints process must be posted on the School’s official website, as described in Section 10.8 of this Charter Contract.

### **Section 10.7 Transportation**

The School may provide its own transportation services, provide transportation through an agreement or contract with a private provider, or access any other school transportation provided to it by law. Pursuant to HRS §286-181, any transportation services provided by the School shall follow the safety rules and standards relating to



school vehicles, equipment, and drivers adopted by the Hawai'i State Department of Transportation.

### **Section 10.8 School Policies**

The School shall post the current versions of the following policies and procedures on its official website:

- (a). Admissions policies and procedures, including the lottery procedure, as described in Section 9.3 of this Charter Contract;
- (b). Student conduct and discipline policy, as described in Section 10.4 of this Charter Contract;
- (c). Complaints procedures, as described in Section 10.6 of this Charter Contract;
- (d). Attendance policies and procedures, as described in Sections 9.6 and 9.7 of this Charter Contract;
- (e). Procurement policy, as described in Section 8.5 of this Charter Contract;
- (f). Safety plan, as described in Section 12.1 of this Charter Contract;
- (g). Financial management policies and procedures, as described in Section 8.4 of this Charter Contract;
- (h). Personnel policies, as described in Section 15.9 of this Charter Contract;
- (i). Policies and procedures for reporting crime related incidents and suspected child abuse or neglect pursuant to Section 12.5 of this Charter Contract; and
- (j). Policies and procedures related to the prohibited use of tobacco and tobacco products pursuant to section 12.6 of this Charter Contract.

## **ARTICLE XI: EDUCATIONAL SERVICE PROVIDER**

### **Section 11.1 Contracting with an Educational Service Provider**

The School shall not enter into a contract or subcontract for comprehensive management or administration services which include, but are not limited to, operational back office functions and services related to the instructional design and operation of the School, in return for fees, unless otherwise agreed to in writing by the Commission and reviewed and approved by the School's Deputy Attorney General. The School shall submit for the Commission's approval The SPCSC Request to Amend Charter Contract Form for any proposed changes or termination of any ESP agreement.

### **Section 11.2 Educational Service Provider Requirements**

The Commission has an obligation to ensure that the School's Governing Board retains its statutory responsibilities and that the School-service provider relationship will not inhibit the Commission from fulfilling its oversight responsibilities. The following requirements ensure that both the School's Governing Board and the Commission retain authority to fulfill their legal rights and responsibilities under this Charter Contract and applicable law:

- (a). The ESP agreement shall be subject to, and shall incorporate by reference, the terms and conditions of this Charter Contract.
- (b). The term of the ESP agreement shall not exceed the term of this Charter Contract.
- (c). No provision of the ESP agreement shall interfere with the duty of the Governing Board to exercise its statutory, contractual, and fiduciary responsibilities governing the operation of the School. No provision of the ESP agreement shall prohibit the School's Governing Board from acting as an independent, self-governing public body, or allow decisions to be made other than in compliance with HRS Chapter 302D.
- (d). The ESP agreement shall require the ESP to defend, indemnify, and hold harmless the State of Hawai'i, the Commission and the School, and their officers, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys' fees, and all claims, suits and demands therefore, arising out of or resulting from the acts or omissions of the ESP or the ESP's employees, officers, agents, or subcontractors under the ESP agreement. The ESP agreement shall not require the School to defend, indemnify or hold harmless the ESP. The ESP agreement shall contain insurance and indemnification provisions outlining the coverage the ESP will obtain.
- (e). The ESP agreement shall describe the specific services for which the ESP is responsible and shall clearly delineate the respective roles and responsibilities of the ESP and the School in the management and operation of the School, including development, approval, and oversight of the School's budget; development, approval, and oversight of the School's curriculum; and oversight

- of the ESP's services.
- (f). The ESP agreement shall expressly provide that the School retains, at all times, ultimate responsibility for the School's budget and curriculum.
  - (g). The ESP agreement shall include procedures by which the ESP will be accountable to the School including expressly addressing how the School will evaluate and hold the ESP accountable in relation to the Performance Frameworks (Exhibit "A").
  - (h). The ESP agreement shall be terminable by the School in accordance with its established termination procedures.
    - i. Upon default by the ESP, including without limitation any act or omission of the ESP that causes a default under the Charter Contract or that causes the School to be in material violation of applicable law; or
    - ii. For other good cause as agreed by the School and the ESP.
  - (i). The ESP agreement shall provide that the financial, educational, and student records pertaining to the School are School property and that such records are subject to the provisions of the Uniform Information Practices Act (HRS Chapter 92F). All School records shall be physically or electronically available, upon request, at the School's physical facilities. Except as permitted under this Contract and applicable law, no ESP agreement shall restrict access to the School's records by the Commission, the HIDOE, the Office of the State Auditor, or other authorized party in compliance with Section 17.3 of this Charter Contract.
  - (j). The ESP agreement shall require that the ESP furnish the School with all information deemed necessary by the School or the Commission for the proper completion of the budget, quarterly reports, or financial audits required under this Charter Contract.
  - (k). The ESP agreement shall provide that all financial reports provided or prepared by the ESP shall be presented in the format prescribed by the Commission.
  - (l). The ESP agreement shall provide that all employees or contractors of the ESP who work in close proximity to students of the School shall be subject to criminal background check requirements in accordance with Section 15.2 of this Charter Contract.
  - (m). The ESP agreement shall contain provisions requiring compliance with all requirements, terms, and conditions established by any federal or state funding source.
  - (n). The ESP agreement shall provide that the School retains responsibility for selecting and hiring the auditor for the independent annual audit required by HRS §302D-32 and this Charter Contract.
  - (o). If an ESP purchases equipment, materials, and supplies using public funds on behalf of or as the agent of the School, the ESP agreement shall provide that such equipment, materials, and supplies shall be included in the School's inventory and remain the property of the School.
  - (p). The ESP agreement shall contain a provision that clearly allocates the respective proprietary rights of the School governing board and the ESP to

curriculum or educational materials. At a minimum, the ESP agreement shall provide that the School owns all proprietary rights to curriculum or educational materials that (i) are both directly developed and paid for by the School; or (ii) were developed by the ESP at the direction of the School's Governing Board with School funds dedicated for the specific purpose of developing such curriculum or materials. The ESP agreement may also include a provision that restricts the School's proprietary rights over curriculum or educational materials that are developed by the ESP from School funds or that are not otherwise dedicated for the specific purpose of developing School curriculum or educational materials. The ESP agreement shall recognize that the ESP's educational materials and teaching techniques used by the School are subject to state disclosure laws and the Uniform Information Practices Act.

- (q). If the School intends to enter into a lease, execute promissory notes or other negotiable instruments, or enter into a lease-purchase agreement or other financing relationships with the ESP, then such agreements shall be separately documented and not be a part of or incorporated into the ESP agreement. Such agreements shall comply with HRS Chapter 37D, if applicable, and shall be consistent with the School's authority to terminate the ESP agreement and continue operation of the School.
- (r). The ESP agreement shall provide that Hawai'i law governs any legal proceeding arising out of a dispute between the School and the ESP.

## **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. The School's plan must be posted on the School's official 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, ordinances, codes, rules, or regulations related to food services, including the handling, preparing, and serving of food.

### **Section 12.3 Health Clearances**

The School shall comply with HRS §§302A-1154 to 302A-1163, and HAR Chapter 11-157, 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 (30) days of the date of the notice, the child shall not be admitted to the School.

### **Section 12.4 Student Health**

The School shall provide appropriate first aid care for ill and injured students. The School may recommend that parents seek the help of medical professionals or appropriate health agencies for cases beyond its scope of responsibility. The School will comply with applicable laws, rules, and regulations related to safety and the provision of health related services, including but not limited to, appropriate School nursing and/ or other public 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:

- (a). Require a report to appropriate authorities from a teacher, official, or other employee of the School who knows or has reason to believe that an act has been committed or will be committed, which:
  - i. Occurred or will occur on School property during School hours or during activities supervised by the School;
  - ii. 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; and

- iii. Involves suspected child abuse or neglect pursuant to HRS §350-1.1.
- (b). Establish procedures for reporting any incident; and
- (c). Impose 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 the School or at School functions.

## **ARTICLE XIII: STUDENT RECORDS AND DATA**

### **Section 13.1 Educational Data**

Pursuant to HRS §302D-23, the School shall comply with the minimum educational data reporting standards established by the BOE and with additional data reporting required by the Commission in its oversight of this Charter Contract and shall ensure all data is accurate and complete.

### **Section 13.2 Reporting of Data and School Information**

The School shall provide to the Commission, in the format and timeframe prescribed by the Commission, any data necessary and reasonably required by the Commission to meet its oversight and reporting obligations. The Commission shall provide by June 1 the list of anticipated reports and due dates and provide this information to the School.

### **Section 13.3 Commission's Annual Report to the BOE and Legislature**

Pursuant to HRS §302D-17, the Commission shall publish and provide an annual report on the School's performance in accordance with the Performance Frameworks.

### **Section 13.4 Permitted Disclosures and Uses by Operators**

Pursuant to HRS §302A-500, the School shall be responsible for notifying operators, as defined in HRS §302A-499, with access to student data and information of the operators' statutory responsibilities and restrictions.

## **ARTICLE XIV: SCHOOL FACILITIES**

### **Section 14.1 Location**

The School facilities are located at the address(es) indicated in Section 2.1 of this Charter Contract.

### **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 Section 2.1 of this Charter Contract.

### **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 HIDOE 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 codes and 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 Section 2.1 of this Charter Contract, 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 SPCSC 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 Charter Contract and shall require prior written approval by the Commission pursuant to Section 2.4 of this Charter Contract.

- (a). 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:
  - i. Any previously authorized campuses must have opened;
  - ii. The School's educational programs earn at least a 73%, or its equivalent, on the Academic Performance Framework for the most recent years of this Charter Contract;



- iii. There have been no material violations of the law and neither the School nor any existing campus is under a **Notice of Concern** described in Section 17.7 of this Charter Contract;
  - iv. The School shall provide educational services, including the delivery of instruction, primarily at locations identified in Section 2.1 of this Charter Contract.
- (b). 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.
- i. The Commission shall approve or deny the proposed location within ninety (90) days of the School's submitted proposal.
  - ii. 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.
- (c). Final approval of the relocation or additional campus location shall be contingent upon meeting the following conditions:
- i. Submission of enrollment projections for the upcoming school year, should the School seek to increase enrollment;
  - ii. Submission to the Commission a Certificate of Occupancy for the new facilities prior to the first day of occupancy;
  - iii. Submission to the Commission of a lease, deed, or other document showing the School possesses the right to occupy the new premises;
  - iv. Submission to the Commission documentation that the new facilities meet applicable health, safety, fire, building, and zoning code requirements; and
  - v. 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, to determine whether a prospective employee, vendor, volunteer, or agent is suitable prior to the commencement of such employment, services, or volunteer work. The School shall consider the results of such background checks in its decision to employ or utilize such persons either directly or through a School Management Contract.

The School may terminate the employment of any employee or deny employment to an applicant if the person has been convicted of a crime, and if the School finds by reason of the nature and circumstances of the crime that the person poses a risk to the health, safety, or well-being of others. All such decisions shall be subject to applicable federal and state laws and regulations.

### **Section 15.3 Collective Bargaining**

All employees of the School shall be subject to collective bargaining under HRS Chapter 89, and shall comply with the master agreements as negotiated by the State; provided that the School may enter into supplemental collective bargaining agreements that contain cost and non-cost items to facilitate decentralized decision-making. 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 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. The School shall ensure each employee that qualifies for State benefits receives such benefits.

### **Section 15.7 Evaluations**

Pursuant to federal and state law and policy, the School is responsible for implementing principal and teacher evaluation systems. The School shall ensure that the evaluation systems are in compliance with all applicable laws, regulations, and policies, including, but not limited to federal and state education law requirements and collective bargaining requirements.

### **Section 15.8 Non-Instructional Employees**

The School shall ensure that the School's non-instructional employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Charter Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county laws, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied, as well as any applicable collective bargaining agreements.

### **Section 15.9 Personnel Policies**

The Governing Board shall adopt and adhere to personnel policies for all school employees. The School's current policies must be posted on the School's official website and a copy submitted to the Commission.

## **ARTICLE XVI: INSURANCE AND LEGAL LIABILITIES**

### **Section 16.1 Insurance**

The School shall be covered under the Statewide Risk Management Program pursuant to HRS Chapter 41D, for liability, property, crime, and automobile insurance. The School shall comply with all applicable laws, rules, policies, procedures, and directives of the Department of Accounting and General Services' Risk Management Office.

## **ARTICLE XVII: COMMISSION OVERSIGHT AND RESPONSIBILITIES**

### **Section 17.1 Oversight and Enforcement**

The Commission will manage, supervise, and enforce this Charter Contract. Pursuant to HRS §302D-17, the Commission shall continually monitor the performance and legal compliance of the School under this Charter Contract and hold the School accountable to the performance of its obligations as required by federal and state laws and regulations, the Performance Framework, as well as the terms of this Charter Contract.

The Commission shall have the authority to conduct oversight activities that enable the Commission to fulfill its responsibilities under HRS Chapter 302D, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of HRS Chapter 302D, and adhere to the terms of this Charter Contract. Enforcement of this Charter Contract may include, but is not limited to, taking corrective action, development of corrective action plans, imposing sanctions, non-renewal, revocation, or termination of this Charter Contract.

### **Section 17.2 Monitoring Related to Federal Programs**

The School shall allow the HIDOE access to and provide any information needed to meet its oversight and reporting obligations as the SEA or LEA. The HIDOE may monitor the School for compliance with programmatic or fiscal requirements, including requiring reports or other documentation, under any applicable law related to federal programs, including but not limited to special education.

### **Section 17.3 Access to Records**

Consistent with the school's obligations under FERPA, the School shall make all School records open to inspection by the Commission, the HIDOE, the Office of the State Auditor, law enforcement officials, contractors, or any other federal or state regulatory agency within five (5) business days after request is made, or sooner if required by law.

### **Section 17.4 Right to Review**

The Commission is a state educational agency with oversight and regulatory authority over the schools that it authorizes as provided by HRS Chapter 302D. Upon request, the Commission, or its designee, shall have the right to review all records created, established or maintained by the School in accordance with the provisions of this Charter Contract, applicable federal and state law and regulations. This right shall be in addition to the Commission's right to require the School to submit data and other information to aid in the Commission's oversight and monitoring of the School as provided under this Charter Contact and applicable law.

When the request is for on-site inspection of records, the Commission shall be granted immediate access. If the request is for the production of records, then the Commission will include a timeframe in which the records must be produced and provided; the School must adhere to this timeframe.

This information, regardless of the form in which it is disclosed, will be used by the Commission, and its authorized representatives, to satisfy its obligations to audit, evaluate, and conduct compliance and enforcement activities relative to the School.

### **Section 17.5 Inquiries and Investigations**

The Commission may conduct or require oversight activities including, but not limited to, inquiries and investigations consistent with HRS Chapter 302D, regulations, and the terms of this Charter Contract. The Commission may gather information or evidence from any individual or entity with information or evidence that may be relevant to the inquiry or investigation.

### **Section 17.6 Site Visits**

The Commission may visit the School at any time and may, at its discretion, conduct site visits and monitoring. When appropriate, the Commission shall make reasonable efforts to provide notice of visits. Such site visits may include any activities reasonably related to fulfillment of the Commission's oversight responsibilities including, but not limited to, inspection of the facilities; audit of financial books and records; inspection of records maintained by the School; interviews and observations of the principal, staff, school families, staff of an affiliated nonprofit or educational service provider and community members; and observation of classroom instruction.

### **Section 17.7 Notice of Concern**

The Commission shall notify the School of perceived problems about unsatisfactory performance or failure to meet legal or contractual compliance obligations (including any goals, objectives, or outcomes set in the performance frameworks) and may issue a **Notice of Concern**. The School will be given reasonable opportunity to respond and remedy the problem, unless revocation is warranted in accord with HRS §302D-17(c) and/or HRS §302D-18(g).

Failure to issue a **Notice of Concern** shall not be (i) construed as a waiver or relinquishment of any requirement under applicable laws, rules, policies, procedures, contractual terms and conditions, or performance expectations; or (ii) deemed a necessary precedent to non-renewal or revocation.

### **Section 17.8 Notice of Concern Intervention Protocols**

Upon receiving a **Notice of Concern**, the School's Governing Board will be required to provide a written response to the Commission within fourteen (14) calendar days and the response must include at least one of the following:

- (a). a description of the remedy of the compliance breach, if the breach has been completely remedied, including evidence of such remedy;
- (b). a written notification disputing the determination that a compliance breach has occurred with accompanying evidence in support of that assertion; or
- (c). The SPCSC Corrective Action Plan Form, describing how the School will remedy the compliance breach that includes timelines and persons responsible for each action within the plan. If the submitted corrective

action plan is not mutually agreeable to both the School and the Commission staff, the matter will be brought to the Commission at a General Business Meeting.

If the School disputes the **Notice of Concern**, the Commission will consider the matter at a General Business Meeting and retract, modify, or uphold the **Notice of Concern**. The Commission may be updated on the issuance, remedy, and progress towards implementation of Corrective Action Plans in the Executive Director's Report during General Business Meetings.

#### **Section 17.9 Notice of Deficiency and Notice of Prospect of Revocation**

If the School fails to respond or make progress towards correcting the breach in the time allowed by the Corrective Action Plan, repeatedly fails to comply with applicable law or Contract provision(s), or when the breach presents an immediate concern for student or employee health and safety, the Commission may take any or all of the following actions:

- (a). Issue a **Notice of Deficiency** which may include prescriptive, specific action plans and conditions for the School; or
- (b). Issue a **Notification of Prospect of Revocation**, which initiates revocation proceedings, in accordance with HAR §8-505-16.

In accordance with HRS §302D-17, this Intervention Protocol shall not apply in any circumstance in which the Commission determines that a problem or deficiency warrants revocation, in which case HRS Chapter 302D, and the established rules, procedures and protocols for revocation shall apply.

#### **Section 17.10 Other Legal Obligations**

Nothing in this Charter Contract will be construed to alter or interfere with the Commission's performance of any obligations imposed under federal or state law.

## **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 term 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 HAR §§8-505-10 through 8-505-13. Each school will have thirty (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 forty-five (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.

### **Section 18.2 Non-Renewal of a Charter Contract**

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

- (a). Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under HRS Chapter 302D, or this Charter Contract.**

In evaluating this provision, the Commission will place a heavier emphasis on violations of law or Charter 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.

- (b). Failed to meet or make sufficient progress toward performance expectations set forth in this Charter Contract.**

In evaluating this provision for the Academic Performance Framework, 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, the Commission shall find that sufficient progress was not made toward academic performance expectations.

In evaluating this provision for the Organizational and Financial Performance Frameworks, 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, the Commission shall find that progress has not been made toward organizational and/or financial performance expectations.



**(c). 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.

**(d). Substantially violated any material provision of law from which the 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.

### **Section 18.3 Revocation**

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

### **Section 18.4 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 Charter 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 18.5 Termination by the Commission**

This Charter Contract may be terminated, after written notice to the School, and the Charter Contract revoked by the Commission in accordance with the provisions of HRS §302D-18 and associated administrative rules in HAR Title 8 Chapter 505.

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

- (a). Any of the grounds provided for under HRS §302D-18, as it exists now or may be amended;
- (b). A material and substantial violation of any of the terms, condition, standards, or procedures set forth in the Charter Contract;
- (c). Failure to meet generally accepted standards of fiscal management and/or school's lack of financial viability;
- (d). Failure to provide the Commission with access to information and records;
- (e). Substantial violation of any provision of Applicable Law;
- (f). Failure to meet or make sufficient progress towards the goals, objectives, Performance Frameworks expectations, applicable federal requirements or other terms identified in this Charter Contract;

- (g). Bankruptcy, insolvency, or substantial delinquency in payments, by the School; and
- (h). Submission of inaccurate, incomplete, or misleading information in its Application or in response to a Commission's request for information or documentation.

This Charter 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 thirty (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 this Charter Contract. This provision shall be implemented in accordance with HRS §302D-5 and §302D-17 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 (90) 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 Charter Contract or the legal authority for entering into this Charter Contract is invalidated by the decision of any court of 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 Charter Contract can remain in effect without the invalid contract provision. If the Commission determines that the decision implicates the legal authority for entering into this Charter Contract, or materially and substantially alters the contract provision, the Charter Contract shall terminate on the date that the decision becomes final.

If the legal authority for entering into this Charter Contract is invalidated, then this Charter 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 Contract. 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, as adopted by the Commission.

#### **Section 18.10 Termination for Withdrawal of Authority**

In the event that the Commission's authority to perform any of its duties is limited in any way, such that it cannot perform its duties or obligation under the law and/or this Charter Contract, after the commencement of this Charter Contract and prior to normal completion, the Commission may terminate this Charter Contract, in whole or in part, by providing written notice to the Governing Board within seven (7) calendar days (or other appropriate time period). No penalty shall accrue to the Commission in the event this section shall be exercised.

#### **Section 18.11 Termination for Non-Allocation of Funds**

If funds are not allocated to continue this Charter Contract in any future period, or it appears that the legislature may not appropriate sufficient funding for the continual operation of the School, the Commission may terminate or suspend this Charter Contract by providing written notice to the Governing Board within seven (7) calendar days (or other appropriate time period). No penalty shall accrue to the Commission in the event this section shall be exercised.

#### **Section 18.12 Termination for Conflict of Interest**

The Commission may terminate this Charter Contract by written notice to the Governing Board if it is determined, after due notice and examination, that any party to this Charter Contract has violated the ethics or conflicts of interest provisions of this Charter Contract, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts.

#### **Section 18.13 Dissolution**

Upon termination of this Charter Contract for any reason by the School, the Commission, upon expiration of this Charter Contract, or if the School should cease operations or otherwise dissolve, the Commission may supervise the dissolution of the business and other affairs of the School; provided, however, that in doing so the Commission will not be responsible for and will not assume any liability incurred by the School under this Charter Contract. The Governing Board and School personnel shall cooperate fully with the dissolution of the affairs of the School. The School's obligations for following a termination protocol and dissolving the affairs of the School shall survive the term of this Charter Contract.

#### **Section 18.14 Disposition of Remaining Assets**

In the event that the School closes, in accordance with Commission policy and Applicable Law, the School shall return to the State any and all remaining public assets, including tangible, intangible, and real property in use by the School but originally owned by the State or assets purchased using at least 25 percent of public funds, provided that any outstanding obligations of the School are fulfilled first pursuant to HRS §302D-19. School owned assets, including tangible, intangible, and real property, remaining after paying the School's debts and obligations and not requiring return or

transfer to donors or grantor, or other disposition in accordance with federal and state law, will be disposed of in accordance with federal and state law, including but not limited to HRS §302D-19 as amended. This provision shall survive the term of this Charter Contract.

## **ARTICLE XVIV: GENERAL TERMS**

### **Section 19.1 Entire Contract**

The Parties intend this Charter Contract, including all attachments, exhibits, and amendments thereto, to contain all the terms and conditions agreed upon by the Parties, and represents a final and complete expression of their agreement, which shall be considered the Charter Contract. All prior representations, understandings, and discussions are merged herein, and no course of prior dealings, other understandings, oral or otherwise, regarding the subject matter of this Charter Contract shall be deemed to exist, supplement, explain any terms used in this document or to bind any of the Parties hereto. The Parties understand that any amendments to this Charter Contract need to be in writing and expressly approved by the Commission.

### **Section 19.2 Amendments**

Any amendment to this Charter Contract shall be effective only if approved by a majority vote of the Commission at a public meeting. The School may submit any proposed amendment to the Commission in accordance with the SPCSC Request to Amend Charter Contract Form provided by the Commission. The School shall not take action related to the requested amendment until the Commission has approved said amendment. A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract. Changes in operation that require the School to obtain an amendment to this Charter Contract include but are not limited to the following:

- (a). Any material term in Article II of this Charter Contract (Exhibit "A");
- (b). Any School location changes, such as relocation of site or adding or terminating sites;
- (c). Any School management arrangement(s), such as intention to hire or terminate a ESP; and
- (d). Any admissions or enrollment changes to policies or procedures.

### **Section 19.3 Governing Law**

This Charter Contract shall be governed by and construed in accordance with the laws of the State of Hawai'i, including all requirements imposed by applicable policy and regulation, and all applicable federal laws of the United States.

### **Section 19.4 Compliance with Laws**

The School and the Commission shall comply with all applicable federal, state, and county laws, ordinances, codes, rules, or regulations, as the same may be amended from time to time.

**Section 19.5 Conflict Between Charter Contract, Law, and Administrative Rules**

In the event of a conflict between this Charter Contract, state law, and the administrative rules pertaining to charter schools, the order of precedence shall be state law, followed by administrative rules, followed by the terms and conditions of this Charter Contract.

**Section 19.6 Legal Status of School**

Pursuant to HRS §§302D-1 and 302D-25, the School is a public school and entity of the State and may not bring suit against any other entity or agency of the State. The School shall be nonsectarian in its operations.

**Section 19.7 Board of Education Authority**

Pursuant to its duties under Article X, Section 3, of the Hawai'i State Constitution, the BOE has the power to formulate statewide educational policy. The School shall only be subject to BOE policies expressly identified by the BOE as applying to charter schools. Should conflicts between an applicable BOE policy and a provision in this Charter Contract occur, the BOE policy shall control.

**Section 19.8 Non-Assignability**

The School shall not assign or subcontract any duty, obligation, right, or interest under this Charter Contract without prior written Commission approval. A violation of this provision shall be considered material and substantial and may be grounds for immediate revocation of this Charter Contract.

**Section 19.9 Severability**

In the event that any provision of this Charter Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Charter Contract.

**Section 19.10 Waiver**

The failure of either Party to insist upon the strict performance of or compliance with any term, provision, or condition of this Charter Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the Parties' right to enforce the same in accordance with this Charter Contract.

**Section 19.11 No Third-Party Beneficiary**

The enforcement of the terms and conditions of this Charter Contract shall be strictly reserved to the Commission and the School. Nothing contained in this Charter Contract shall give or allow any claim or right of action whatsoever by any other person. It is the express intent of the Parties to this Charter Contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only, without enforceable rights against a Party to this Charter Contract.

## **ARTICLE XX: NOTICE**

### **Section 20.1 School Emergency Closure**

The School shall promptly notify the Commission, the appropriate county civil defense office(s), and the public, of any circumstance requiring the closure of the School, including, but not limited to, a natural disaster or destruction of or damage to the School facility.

### **Section 20.2 Mandatory Notification**

The School shall notify the Commission within two (2) calendar days when it has knowledge of any of the following:

- (a). Any condition that may cause the School to vary from the terms of this Charter Contract or applicable requirements, federal and/or state law;
- (b). The arrest of any members of the School Governing Board or School employees for a crime punishable as a felony or any crime related to the misappropriation of funds or theft;
- (c). A court judgment that any members of the School Governing Board or School employees have been found guilty; pled no-contest, or accepted a deferred acceptance of a no-contest plea;
- (d). Any complaint, citation, or default filed against the School by a government agency or lessor;
- (e). Any inaccuracy found in enrollment count or other data provided to the Commission;
- (f). The School receives a notice or is otherwise informed that the School is a party to a legal suit;
- (g). Severe damage to a School's facilities that render the facilities unusable and require the School to relocate; or
- (h). A default on any obligation, which shall include debts for which payments are past due by ninety (90) calendar days or more.

### **Section 20.3 Notices**

Unless otherwise specified by law, any notice required or permitted under this Charter Contract shall be in writing and shall be effective upon delivery: (a) personally, (b) electronically via email, or (c) by United States first class mail, postage prepaid addressed as follows:

<p>If to the Commission:</p> <p>State Public Charter School Commission  1164 Bishop Street, Suite 1100  Honolulu, Hawai'i 96813  Attention: Executive Director  Email:  <a href="mailto:Commission.Mail@spcsc.hawaii.gov">Commission.Mail@spcsc.hawaii.gov</a>  Telephone: (808)586-3775</p>	<p>If to the School:</p> <p>Kihei Charter School  P.O. Box 1098, Kihei, HI 96753  Attention: Governing Board Chair  email: [REDACTED]  Telephone: (808) 875-0700</p>
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A notice shall be deemed to have been received three (3) business days after mailing or at the time of actual receipt, whichever is earlier. For notices sent electronically via email, the notice shall be deemed to be received once the Party sending the notice receives confirmation via an email tracking notice.

Parties are responsible for notifying each other in writing of any change of mailing and email addresses. Any change in address shall be immediately given to the other party in writing. Any notice that is undeliverable due to change of address without proper notification to the other party will be deemed received on the date delivery to the last known address was attempted.

If a notice is received on a weekend or on a national or Hawai'i state holiday, it shall be deemed received on the next regularly scheduled business day.

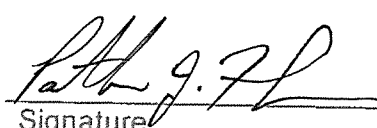



ARTICLE XXI: AGREEMENT

IN WITNESS WHEREOF, the Parties have caused this Charter Contract to be duly executed and entered into as of the effective dates written below.

STATE PUBLIC CHARTER SCHOOL  
COMMISSION

KIHEI CHARTER SCHOOL

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

PATRICK J. FOEHR  
\_\_\_\_\_  
Print Name  
Interim Executive Director

Michael Sweeney  
\_\_\_\_\_  
Print Name  
Governing Board Chair

6/30/2023  
\_\_\_\_\_  
Date

6/25/2023  
\_\_\_\_\_  
Date

\_\_\_\_\_  
APPROVED AS TO FORM:

snf  
\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy Attorney General

## **EXHIBIT "A": PERFORMANCE FRAMEWORKS**

## EXHIBIT “A”: PERFORMANCE FRAMEWORKS

### Introduction

The School's academic, financial, and organizational performance under this Charter Contract shall be evaluated using the Academic, Financial, and Organizational Performance Frameworks, respectively, and are attached as Exhibit “A” to this Charter Contract. Collectively, the three Performance Frameworks provide a comprehensive performance management system that is data-driven to promote School success by establishing and communicating expectations that are objective, transparent, and directly related to school quality. The specific terms, forms, and requirements of the Performance Frameworks, including any required indicators, measures, metrics, and targets, are maintained and disseminated by the Commission and shall be binding on the School. Changes and amendments to the Performance Frameworks shall require approval by the Commission.

- (a). The Commission will monitor and annually report on the School’s progress as set out in the Performance Frameworks.
- (b). The evaluation of the School under the Performance Frameworks shall provide guidance for the Commission to renew, revoke, terminate or take other action on the Charter Contract.
- (c). The Commission reserves the right to amend the Charter School Performance Frameworks set out in Exhibit “A”. The School will be required to comply with any amendments of the Charter School Performance Frameworks.
- (d). If the School does not meet the performance standards in the Performance Frameworks, it may receive a **Notice of Concern** pursuant to Section 17.7 of this Charter Contract.
- (e). Failure to meet or make substantial progress toward meeting the performance standards may be sufficient justification to revoke or non-renew the School’s Charter.
- (f). The Commission is not required to allow the school the opportunity to remedy the problem if unsatisfactory review warrants revocation.

## **Exhibit “A”: Academic Performance Framework**

## EXHIBIT “A”

### ACADEMIC PERFORMANCE FRAMEWORK

#### Introduction

With increased school autonomy as a bedrock of charter school authorization, comes the expectation of high academic standards, achievement, and mission accomplishment. The Academic Performance Framework (“**APF**”) outlines the measures by which a charter school’s academic performance will be evaluated for purposes of annual monitoring, potential interventions, plans for improvement, and renewal and revocation decisions.

## ANNUAL ACADEMIC PERFORMANCE FRAMEWORK

2 Required Indicators (100 points) and 2 Supplemental Indicators (15 additional points)

### Indicator 1. Mission Aligned Initiative (maximum 30 points)

1 (A) The school is implementing its mission and vision based on its mission statement. (maximum 20 points)

School to self-report by providing the mission statement, educational goals, rubrics, and disaggregated data as documentation on how the school has developed and implemented its model based on its mission statement.

Measure	Basic (10)	Practiced (15)	Ingrained (20)	Score (20)
<b>Mission Alignment to Student Success School process includes:</b>	Articulation of school mission/vision	Articulation of units/ lessons (curriculum, instruction, and assessment) that target an aspect of the school mission/vision	Articulation of a yearlong curriculum with units/lessons and assessments that target an aspect of the school mission/vision	

### MAI Narrative 1,000-word limit Submission (maximum 10 points)

1 (B) Share what you have done as a school to meet your mission.

Using the criteria below, describe how your school has demonstrated and assessed student performance aligned to the school mission for this school year.

Measure	Approaches	Practices	Ingrained	Score (10)
<ul style="list-style-type: none"> <li>● The educational program is aligned to the mission</li> <li>● The mission guides decision-making and priority setting</li> <li>● The mission is reflected in student learning and progress</li> </ul>				

**Indicator 2. Standardized Assessments - Strive HI (maximum 70 points)**

Measure	Description	Grade Levels	Does Not Meet (4)	Meets/Exceeds (7)	Total (70)
<b>Absolute Achievement:</b> Shows how students have performed at a single point in time (a snapshot) on particular assessments (including but not limited to state standardized assessments)	ELA	3 - 8, 11			
	Math	3 - 8, 11			
	Science	4, 8, EOC Bio			
	KA'EO - HLA	3 - 8			
	KA'EO - Math	3 - 8			
	KA'EO - Science	5 and 8			
<b>Growth - Median SGP:</b> Examines how individual students have improved over time on a particular assessment (including but not limited to state standardized assessments)	ELA	3 - 8, 11			
	Math	3 - 8, 11			
	KA'EO - HLA	3 - 8			
	KA'EO - Math	3 - 8			
<b>Achievement Gap:</b> Difference in LA and Math proficiency rates for high needs (economically disadvantaged, special needs, English Learners) and non-high needs students	ELA	3 - 8, 11			
	Math	3 - 8, 11			
	KA'EO - HLA	3 - 8			
	KA'EO - Math	3 - 8			

Measure	Description	Grade Levels	Does Not Meet (4)	Meets/Exceeds (7)	Total (70)
<b>Post-Secondary Readiness:</b> Percentage of students reading at, or near grade level, and/or promotion rate, depending on grade level	<b>Elementary</b>	<b>3</b>			
	<b>Elem/Middle</b>	<b>8</b>			
	<b>On-time promotion rate</b>	<b>9</b>			
<b>Chronic Absenteeism:</b> Based on the number of students absent (excused/unexcused) for fifteen (15) or more days during the Full School Year (FSY) period. For secondary school students, a student is considered absent if he/she did not attend more than fifty (50)% of scheduled classes that day					
<b>School Climate:</b> Percentage of students who feel positive about their school (Data from State's accountability system)					

**Indicator 3. Comparative Performance (Supplemental 6 Points)**

Provides an opportunity for a public charter school to compare its performance with other public schools.

Measure	Grade Levels	Complex Area	Complex	Charter Schools	Does Not Meet (1)	Meets (2)	Total (6)
<b>ELA</b>	<b>3 - 8 , 11</b>						
<b>Math</b>	<b>3 - 8 , 11</b>						
<b>Science</b>	<b>4, 8 and Biology EOC</b>						
<b>KA'EO – HLA</b>	<b>3 - 8</b>						



Measure	Grade Levels	Complex Area	Complex	Charter Schools	Does Not Meet (1)	Meets (2)	Total (6)
KA'EO - Math	3 - 8						
KA'EO - Science	5 and 8						

**Indicator 4. School Reported Data - Site-Relevant Diagnostics (Supplemental 9 points)**

Depicts student achievement/growth at critical points throughout the school year utilizing site-relevant diagnostics

Choose one of the following:		
<b>Adaptive Diagnostic Tool</b> - a type of computer adaptive test that matches the difficulty of the test questions to the ability of the student	<input type="checkbox"/>	Name
<b>Local-specific Diagnostic Tool</b> - school developed tool/task that utilizes locally developed norms to assess student growth	<input type="checkbox"/>	Name
<b>Universal Screener</b> - a brief assessment typically administered three times per year (fall, winter, and spring)	<input type="checkbox"/>	Name

Disaggregation of Above Data						
Level	Grade Levels	Fall	Mid-Year	End of Year	Growth Trend	Total
Lower Elementary						
Upper Elementary						
Middle School						
High School						

Schoolwide Data				
Fall	Mid-Year	End of Year	Growth Trend	Total

Narrative analysis of data - use the above data to describe student progress over the course of the school year. How does this data inform ongoing instruction and modifications/adjustments to the educational program?

**Exhibit “A”: Organizational Performance Framework**

## EXHIBIT "A":

### ORGANIZATIONAL PERFORMANCE FRAMEWORK

#### Introduction

**§302D-16 Performance framework.** (a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic, financial, organizational and operational performance indicators, measures, and metrics that will guide the authorizer's evaluations of each public charter school.

The Organizational Performance Framework serves as the means by which the Commission addresses one of an authorizer's core responsibilities: protecting the public interest. The Framework requires the School to meet all applicable federal, state, and local laws and regulations as well as contractual requirements.

The Commission shall continually monitor the performance and legal compliance of the public charter schools, and will evaluate and assess performance under the Organizational framework annually and at renewal by:

1. Conducting interviews and/or reviews for any compliance requirements associated with the references identified in the Organizational Framework;
2. Conducting at least one school site visit in person or virtually during the term of the Charter Contract;
3. Requiring submission of documentation verifying compliance through the Commission's online compliance management system; and
4. Reporting on the School's fulfillment of compliance requirements specified in this Organizational Framework.

The level of oversight the School will receive may vary during the term of the Charter Contract. If the School does not comply with the requirements of this Organizational Performance Framework, the School may receive a **Notice of Concern** requiring a corrective action plan to be submitted to the Commission as provided in Article XVII of this Charter Contract.

<b>School Name:</b>
<b>Date:</b>

Organizational Framework Indicators	Meets	Does Not Meet
<i>School Charter and Mission</i>		
<i>Governance</i>		
<i>School Performance</i>		
<i>Academic Performance</i>		
<i>Financial Management</i>		
<i>Admission, Enrollment, and Attendance</i>		
<i>General Operation of School</i>		
<i>Educational Service Provider</i>		
<i>Health and Safety</i>		
<i>Student Records and Data</i>		
<i>School Facilities</i>		
<i>Personnel and Employment</i>		
<i>Insurance and Legal Liabilities</i>		
<i>Commission Oversight and Responsibilities</i>		
<i>Notice</i>		
<i>Additional Obligations</i>		



Contract Section Requirement	Annual	Renewal	Meets	Does Not Meet	Comments
<i>School Charter and Mission - Article II</i>					
<i>2.1 Charter</i>	x	x			Lease(s) upon request.
<i>2.2 Mission statement The School is operating in accordance with its mission statement.</i>		x			Interview
<i>Governance - Article IV</i>					
<i>4.1 Governing Board Responsibilities The Governing Board is operating and ensuring compliance with all Applicable Laws and managing any contracts with administrative personnel and/or Educational Service Providers</i>		x			Interview
<i>4.3 (a) Governing Board Membership The Governing Board has a consistent process for and maintains records of the selection of Governing Board members. The selection records include the candidate's qualifications to serve, and the Governing Board's decision on the Governing Board Member's application.</i>		x			Interview

<b>4.3 (b) Governing Board Membership</b> <i>The Governing Board members meet the individual standards set in HRS §302D-12, and, collectively possess the knowledge, experience, and skills to effectively oversee the School's academic, financial, and organizational program.</i>		x			Interview
<b>4.4 Governing Board Meetings</b> <i>The Governing Board holds meetings open to the public.</i>	x	x			Notice of meeting (agenda) posted to website and in office
<b>4.5 Governing Board Reporting</b> <i>In accordance with HRS §302D-12(h) the required documents are available in a publicly accessible area in the School's office, accessible for review during regular business hours, and are posted on the School's official website.</i>	x	x			Notice of meeting (agenda), GB meeting minutes, current names and contact information of GB members and officers posted to website and in office.
<b>4.5 (d) Schedule of Governing Board meetings by 9/1 of each year</b>	x	x			Schedule posted on the website and in the office.
<b>4.6 School Governing Board Member Information</b>	x				Annual submission / Ongoing update
<b>School Performance - Article V</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>5.1 Performance Frameworks</b> <i>The School has met the specific terms, forms, and requirements of the Academic Performance Framework</i>	x	x			Data review. State generated testing data reported by DOE, articulation document submitted 1st and 4th year of contract and if there is a change in curriculum.
<b>5.1 The School has met the specific terms, forms, and requirements of the Organizational Performance Framework</b>	x	x			Documents submitted and school has complied with contractual requirements.
<b>5.1 The School has met the specific terms, forms, and requirements of the Financial Performance Framework</b>	x	x			Documents submitted and school has complied with contractual requirements.
<b>5.1 The School has no outstanding Notices of Concern or Deficiency</b>	x	x			No outstanding notices of concern.
<b>5.3 Data and Reports</b> <i>The School is consistent in providing information, data, documentation, evidence and reports requested by the Commission pursuant to HRS §302D-17.</i>		x			Review of submissions.
<b>5.5 Federal and State Accountability System</b> <i>The School administers all student testing as required by applicable federal and state law, rule, policies, and procedures.</i>	x	x			Review of state testing data reported
<b>Academic Performance - Article VI</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>6.3 Academic Standards</b> <i>As determined by BOE Policy 102-3, the School implements statewide content and performance standards approved by the BOE.</i>	x	x			Review of state testing data reported
<b>6.5 Virtual and Blended Programs</b> <i>Authorized virtual and/or blended programs adhere to the Commission's Online Virtual and Blended Learning Guidelines.</i>	x	x			Submission of disaggregated data of virtual/blended programs.

<b>6.6 Students with Disabilities</b> <i>The School is compliant with all applicable federal and state laws, rules, procedures, and directives regarding the education of students with disabilities and the programs and services for the student is determined collaboratively by the student's IEP team.</i>		X			Interview
<b>6.8 Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act of 2008</b> <i>School is ADA compliant</i>		X			Interview
<b>6.9 English Learners</b> <i>School provides students who are English Learners access to the School's educational program</i>		X			Interview
<b>Financial Management - Article VIII</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>8.1 Fiscal responsibilities</b> 1) <i>School complies with all applicable law, rules, regulations and the Financial Performance Framework</i> 2) <i>School maintains accurate, comprehensive financial records</i> 3) <i>School uses GAAP accounting</i> 4) <i>School uses funds in a fiscally responsible manner</i>		X			Interview / Record review
<b>8.5 Financial Management Policies</b> <i>School's Governing Board has developed and adheres to policies for financial management that is accessible from School's website including but not limited to the following:</i> (a) <i>development and monitoring of budgets</i> (b) <i>payroll procedures that adhere to collective bargaining requirements and state leave policies</i> (c) <i>maintenance of asset registers and financial procedures for grants in accordance with applicable federal and state laws</i> (d) <i>preparation, review, and monitoring of all financial reporting requirements</i> (e) <i>internal accounting procedures and controls for receipts, disbursements, purchases, payroll, inventory, use of credit cards, debit cards, and fixed assets</i>	X	X			Website review, interview / record review.
<b>8.6 Procurement</b> <i>The Governing Board has developed a policy for the procurement of goods, services, and construction consistent with the goals of public accountability and public procurement practices. The Governing Board has developed procedure to monitor the School's adherence to the procurement policy and this policy is posted on the School's official website.</i>		X			Interview
<b>8.7 Quarterly Reports</b> <i>School submitted all quarterly financial reports to Commission.</i>	X	X			Submission of quarterly reports.

<b>8.8 Annual Budgets</b> <i>School submitted to the Commission, School's proposed budget for the upcoming fiscal year according to the requirements of the section.</i>	x	x			Document submission.
<b>8.9 Annual Audits</b> <i>School has submitted an annual financial audit to the Commission by the date determined.</i>					
<b>8.10 Maintenance of Financial Records and Information</b> <i>School maintains all financial information, physical and electronic in accordance with the requirements of the Department of Accounting and General Services' General Records Schedule 2002.</i>					
<b>8.11 Assets</b> <i>The School maintains a complete and current inventory of all property and updates inventory annually.</i>		x			Interview / record review.
<b>8.12 Chart of Accounts</b> <i>The School follows a uniform chart of accounts as required by federal or state financial reporting requirements.</i>					
<b>8.13 Transfer of Funds to Affiliated Nonprofit or ESP</b> <i>The School has not transferred funds to affiliated non-profit or ESP except for legitimate and reasonable payments pursuant to written legal agreement and the School has provided Commission a copy of any newly executed agreement within 14 days of execution where applicable. The School funds are not used as a line of credit or short term loan to any affiliated nonprofit or educational service provider.</i>		x			Interview
<b>8.14 Financing Agreements and Lines of Credit</b> <i>The School is in compliance with HRS Chapter 37D, which requires approval of the attorney general. Credit cards issued to the School and used by School staff must be paid in full each month. Use of credit and debit cards issued to the School is covered by the financial management policy required by Section 8.4 of this Charter Contract.</i>		x			Interview / record review.
<b>8.16 Enrollment Count Reports for Per-pupil funding</b> <i>The School provides projected enrollment counts for funding by May 15.</i>	x	x			Document submission.



<b>Admission, Enrollment, and Attendance - Article IX</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>9.1 Compulsory Education</b> <i>The School follows the age and compulsory attendance requirements set in HRS §302A-1132.</i>		x			Interview / record review.
<b>9.2 No Tuition or Fees for Admission, Enrollment, Attendance</b> <i>School does not assess tuition, contributions, or fees of any kind as a condition of admission, enrollment, or attendance. The school may charge fees for co-curricular activities as allowed in HRS §302D-28.</i>		x			Interview
<b>9.3 Application and Admissions</b> <i>The School admission policies and procedures are approved by the Commission and follow HRS §302D-34.</i>	x	x			Document submission / interview.
<b>9.4 Enrollment</b> <i>Enrollment in the School is open to all students of ages and grades who are residents of the State of Hawai'i .</i>	x	x			Document submission / interview.
<b>9.6 Attendance</b> <i>The School maintains and adheres to its attendance policy and is aware of student location by school staff.</i>		x			Interview
<b>9.7 Attendance: Virtual and/or Blended Learning</b> <i>The School's attendance policy accounts for on-line attendance and requires on-site attendance for each course and grade level.</i>		x			Interview / record review.
<b>9.7 The School maintains daily records of virtual and/or blended student attendance and absences.</b>		x			Interview / record review.
<b>9.9 Dismissal</b> <i>The School has policy and procedures in compliance with HRS §§302A-1134 and 302A-1134.6 and the requirements of HAR Chapter 8-60.</i>		x			Interview
<b>General Operation of School - Article X</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>10.1 Student Records</b> <i>School keeps former and current student records in accordance with federal and state requirements, including the Family Education Rights and Privacy Act, 20 U.S.C. §1232g (FERPA).</i>		x			Interview / record review.
<b>10.2 Records Retention</b> <i>The School is in compliance with all applicable federal and state requirements and the policies and guidelines of the Department of Accounting and General Services, Archives Division, and Records Management Branch.</i>		x			Interview / record review.

<b>10.3 Open Records Law</b> <i>The School is in compliance with HRS §92F, the Uniform Information Practices Act.</i>		x			Interview
<b>10.4 Student Conduct and Discipline</b> <i>The School has adopted, updated, and adheres to written policies concerning standards of student conduct and discipline in compliance with federal and state laws. These policies are made available parent(s)/legal guardian(s) and students at the start of each school year and the School's current policies are posted on the School's official website.</i>	x	x			Website review and interview.
<b>10.6 Complaints Process</b> <i>The School has adopted and adheres to a process for resolving public complaints and the School's current policies are posted on the School's official website.</i>	x	x			Website review and interview.
<b>10.7 Transportation</b> <i>School follows the safety rules and standards relating to school vehicles, equipment, and drivers adopted by the Hawai'i State Department of Transportation.</i>		x			Interview / record review.
<b>10.8 School Policies and Procedures posted to website:</b>	x	x			Website review
<b>(a) Admissions (including Lottery procedure)</b>	x	x			Website review
<b>(b) Student conduct and discipline</b>	x	x			Website review
<b>(c) Complaints</b>	x	x			Website review
<b>(d) Attendance</b>	x	x			Website review
<b>(e) Procurement</b>	x	x			Website review
<b>(f) Safety plan</b>	x	x			Website review
<b>(g) Financial management</b>	x	x			Website review
<b>(h) Personnel</b>	x	x			Website review
<b>(i) Crime reporting</b>	x	x			Website review
<b>(j) Prohibited use of tobacco and tobacco products</b>	x	x			Website review
<b>Educational Service Provider - Article XI</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>11.1 Contracting with an Educational Service Provider</b> <i>The School received approval from the Commission and the School's Deputy Attorney General as applicable.</i>		x			Interview / record review.
<b>11.2 Educational Service Provider Requirements</b> <i>The School has met the requirements in Section 11.2 of this Charter Contract.</i>		x			Interview / record review.
<b>Health and Safety - Article XII</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>12.1 Safe Environment</b> <i>The School maintains a safe learning environment and has developed and adheres to a safety plan. The School's current policies must be posted on the School's official website.</i>	x	x			Website review and interview.

<b>12.2 Food Services</b> <i>The School is in compliance with all applicable federal, state and county laws, rules, and regulations related to food services including the handling, preparing, and serving of food.</i>		x			Interview.
<b>12.3 Health Clearances</b> <i>Compliance with HRS §§302A-1154 to 302A-1163, and HAR Chapter 11-157, 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.</i>		x			Interview / record review.
<b>12.4 Student Health</b> <i>Appropriate first aid care is provided for ill and injured students. The School is in compliance 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 nursing services and the dispensing and storage of medications.</i>		x			Interview
<b>12.5 Reporting of Crime-Related Incidents</b> <i>The School has adopted policies and procedures as required by Section 12.5 of the Charter Contract.</i>	x	x			Website review and interview.
<b>12.6 Use of Tobacco Prohibited</b> <i>The School prohibits the use of tobacco and tobacco products at the School or at School functions.</i>	x	x			Website review and interview.
<b>Student Records and Data - Article XIII</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>13.1 Educational Data</b> <i>The School ensures all data is accurate and complete.</i>		x			Interview.
<b>13.2 Reporting of Data and School Information</b> <i>School has provided data required by Commission to meet its oversight and reporting obligations.</i>	x	x			Document submissions.
<b>13.4 Permitted Disclosures and Uses by Operators</b> <i>The School notifies operators, as defined in HRS §302A-499, with access to student data and information of the operators' statutory responsibilities and restrictions.</i>		x			Interview.
<b>School Facilities - Article XIV</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>14.1 Location</b> <i>Confirmed as described in Section 2.1 of the Charter Contract.</i>	x	x			Interview / record review
<b>14.2 Occupancy Rights</b> <i>The lawful right to occupy and use the premises is confirmed.</i>		x			Interview / record review
<b>14.3 Compliance with Codes</b> <i>The School facilities comply with all applicable state and county building, zoning, fire, health, and safety code requirements, and the School complies at all times with the occupancy capacity limits.</i>	x	x			Document submission (fire inspection) and interview.

<b>Personnel and Employment - Article XV</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>15.2 Criminal History Checks</b> <i>The School conducts criminal history checks administered by Hawaii Criminal Justice Data Center.</i>		x			Interview
<b>15.3 Collective Bargaining</b> <i>The School complies with the master agreements as negotiated by the State and provides a copy of any supplemental collective bargaining agreement to the Commission and the HIDOE.</i>		x			Interview
<b>15.4 Nondiscrimination</b> <i>The School, including any employees or agents of the School, does not engage in any discrimination that is prohibited by any applicable federal, state, or city and county law and include a nondiscrimination policy in its policy manual that complies with BOE Policy 900-1.</i>		x			Interview
<b>15.5 Teacher Credentials</b> <i>The School hires licensed teachers who meet the applicable State licensing requirements consistent with federal and state laws, and collective bargaining agreements.</i>		x			Interview
<b>15.6 Personnel Data</b> <i>The School maintains accurate and complete personnel and payroll information and provides such information to the Commission, in the format and timeframe prescribed by the Commission.</i>		x			Interview
<b>15.7 Evaluations</b> <i>The School implements principal and teacher evaluation systems and ensures that the evaluation systems are in compliance with all applicable laws, regulations, and policies, including, but not limited to federal and state education law requirements and collective bargaining law requirements.</i>		x			Interview
<b>15.8 Non-Instructional Employees</b> <i>The School ensures that non-instructional employees are experienced and fully qualified to engage in activities and perform services and adheres to Section 15.8 of the Charter Contract.</i>		x			Interview
<b>15.9 Personnel Policies</b> <i>The Schools Governing Board has adopted and adheres to personnel policies for all school employees. The School's current polices must be posted on the School's official website and submitted to the Commission.</i>	x	x			Website review and interview.

<b>Insurance and Legal Liabilities - Article XVI</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>16.1 Insurance</b> <i>The School is covered by the Statewide Risk Management Program.</i>		x			Interview
<b>Commission Oversight and Responsibilities - Article XVII</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>17.2 Monitoring Related to Federal Programs</b> <i>The School allows the HIDOE access to and provides information needed to meet reporting obligations.</i>		x			Interview
<b>17.3 Access to Records</b> <i>The School, consistent with obligations under FERPA makes all School records open to inspection by the Commission, the HIDOE, the Office of the State Auditor, law enforcement officials, contractors, or any other federal or state regulatory agency within five business days after request is made, or sooner if required by law.</i>		x			Interview
<b>Notice - Article XX</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>
<b>20.1 School Emergency Closure</b> <i>The School has promptly notified the Commission, the appropriate county civil defense office(s), and the public of a school closure, if applicable.</i>		x			Interview
<b>20.2 Mandatory Notification</b> <i>The School is aware they have to notify Commission within two calendar days when it has knowledge of any of the items listed in Section 20.2 of the Charter Contract.</i>		x			Interview
<b>Additional Obligations</b>	<b>Annual</b>	<b>Renewal</b>	<b>Meets</b>	<b>Does Not Meet</b>	<b>Comments</b>

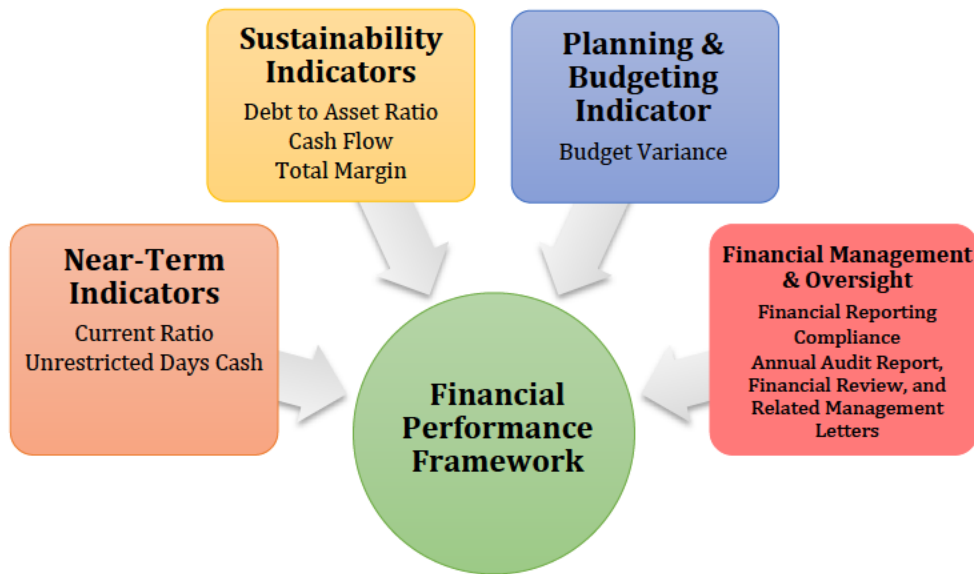
## **Exhibit “A”: Financial Performance Framework**

## EXHIBIT “A”

### FINANCIAL PERFORMANCE FRAMEWORK

#### Introduction

The Financial Performance Framework (“Framework”) serves as a tool for the Commission to assess the financial health and viability of charter schools in its portfolio. The framework intends to provide a financial frame of reference based on current and past financial performance of charter schools. The indicators used in the framework are based on industry standard financial measures (e.g. ratios, variances) designed to be viewed in the aggregate with other complementary and supplementary information (e.g. timely and accurate financial and reporting practices, management practices). No single indicator or point in time data point gives a full picture of the financial situation of a school. Taken together, however, the indicators provide a qualitative assessment of the school’s near-term financial health, mid-term capacity, and long-term financial sustainability.



#### Risk-Based Approach

The framework adopts a risk assessment model as part of ongoing oversight and monitoring of charter schools’ fiscal activities, and renewal decision-making. The model aligns the framework to the unique funding and governance environment for charter schools in the State of Hawai‘i. This risk-based approach will help identify areas of strength and weakness, highlighting controls that are designed to mitigate risks.

School(s) will be closely monitored if there is heightened risk of financial problems. Financial monitoring may include, but not limited to, requests for reports or other documentation, inquiries through written or telephone communications, desk audits, or

on-site visits, announced or otherwise. Moreover, a school may be requested to develop an appropriate corrective action plan to address any monitoring issues identified during the risk assessment. The corrective action plan provides a school an opportunity to explain the issue(s); identify measurable solution(s); identify the person(s) who will be responsible for each solution; set timelines; and monitor the progress of the corrective action plan.

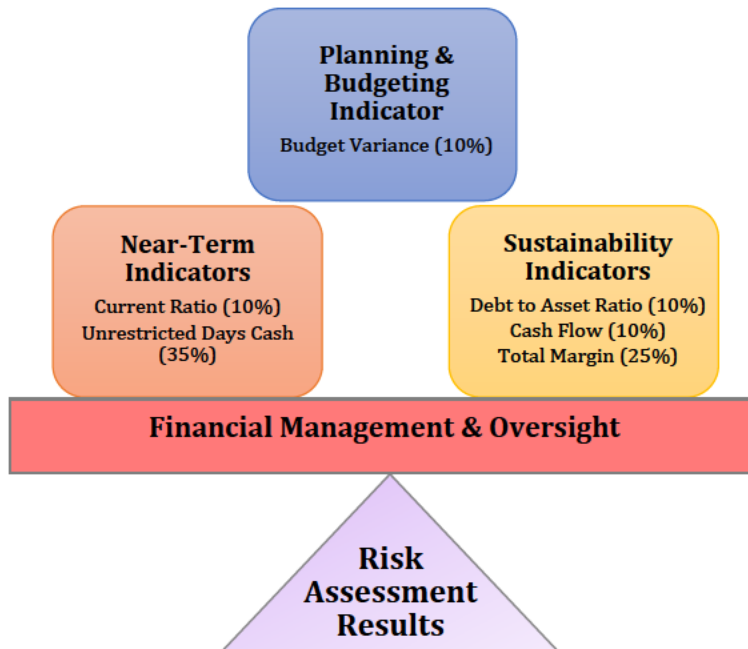


## Annual Risk Assessment Process

The annual risk assessment evaluates whether the financial viability of a school is at-risk based on the Commission’s review of financial information which will be drawn from the school’s annual audited financial statements or financial review. The inclusion of a “component unit” (an affiliated non-profit entity) may apply when a school’s annual audited financial statements include the presentation of reporting the audited component unit. The Commission’s assessment may also include other financial information and/or a more detailed examination of the school’s financial position and practices, as needed. The Commission may also consider the more current and more detailed information to determine whether the risk assessment result is still applicable throughout the assessment period and the degree to which it is, in fact, an indication of financial risk or distress or mitigation.

The risk assessment will focus on six indicators, or measures based on the National Association of Charter School Authorizers (“**NACSA**”) standards. Each indicator will be assessed on a scale from 1 to 5, with 1 being the lowest risk and 5 the highest risk. All six indicators will collectively make up a school’s overall risk level. The annual risk assessment result for a school will be determined using a balanced weighted formula utilizing the individual scores calculated for each indicator as follows:

$$\begin{aligned}
 & (Current\ Ratio \times 0.10) + (Unrestricted\ Days\ Cash \times 0.35) + (Debt\ to\ Asset\ Ratio \times 0.10) \\
 & \qquad \qquad \qquad + \\
 & (Cash\ Flow \times 0.10) + (Total\ Margin \times 0.25) + (Budget\ Variance \times 0.10)
 \end{aligned}$$



The individual and final risk assessment results will be represented as one of five categories based on the school's risk assessment calculations as color-coded below and will be rounded to the nearest whole number.

<b>Low</b>	<b>Acceptable</b>	<b>Moderate</b>	<b>High</b>	<b>Significant</b>
1	2	3	4	5

### **Near Term Indicators**

#### **Current Ratio**

$$\text{Current Ratio} = \text{Current Assets} \div \text{Current Liabilities}$$

The current ratio shows the relationship between a school's current assets and current liabilities. Current assets are balance sheet accounts (e.g. cash, receivables) that include the value of all assets that are expected to be converted to cash through normal operations within the current fiscal year. Current liabilities represent obligations (e.g. payables, accrued payroll, accrued vacation) that are payable in cash within a fiscal year. This ratio gives an indication of a school's ability to pay its obligations over the next twelve months. A school may be at-risk if it is unable to meet its current obligations.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

<b>Low</b>	<b>Acceptable</b>	<b>Moderate</b>	<b>High</b>	<b>Significant</b>
Ratio is greater than (>) 1.5	Ratio is between 1.35 – 1.5	Ratio is between 1.2 – 1.35	Ratio is between 1.0 – 1.2	Ratio is less than (<) 1.0

#### **Unrestricted Days of Cash on Hand**

$$\text{Unrestricted Days Cash} = \text{Days Cash} \div \left[ \frac{\text{Total Expenses} - \text{Depreciation Expense}}{365} \right]$$

The unrestricted days of cash on hand provides the number of days a school can pay its current expenses without another inflow of cash. Cash balances fluctuate since schools can expend and receive money on an almost daily basis. It indicates whether a school maintains a sufficient cash balance to meet its cash obligations. A school may be at-risk if there is insufficient cash to meet its cash obligations.

The indicator looks at a fixed point in time (the time the financial statement is prepared) and a trend over a period of time. Although this indicator is at a fixed point in time, it tells whether a school may have challenges in meeting its cash obligations. Note that this indicator looks at unrestricted cash, not cash that already has been earmarked for a specific purpose, such as renovations or facilities.

This indicator accounts for **35 percent** of a school’s aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Days Cash is more than 60 days and having an upward or downward trend over three years or more	Days Cash is between 50 – 60 days and having an upward or downward trend over three years or more	Days Cash is between 30 – 50 days and having an upward or downward trend over three years or more	Days Cash is between 20 – 30 days and having an upward or downward trend over three years or more	Days Cash is less than 20 days and having a downward trend over three years or more

### Sustainability Indicators

#### Debt to Asset Ratio

$$\text{Debt to Asset Ratio} = \text{Total Liabilities} \div \text{Total Assets}$$

The Debt to Asset Ratio compares a school’s financial liabilities against the assets it owns. A lower ratio generally indicates stronger financial health. A higher ratio indicates that the school may be at-risk of not being able to pay back its debts. It is generally accepted indicator of potential long-term financial issues.

This indicator accounts for **10 percent** of a school’s aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Ratio is less than (<) 0.2	Ratio is between 0.2 – 0.4	Ratio is between 0.4 – 0.5	Ratio is between 0.5 – 0.75	Ratio is greater than (>) 0.75

#### Cash Flow

$$\text{Cash Flow} = \text{Year-end Cash Balance} - \text{Beginning Year Cash Balance}$$

Cash Flow measures a school’s change in cash balance from one period to another. This indicator is similar to days’ cash on hand, but it provides insight into a school’s long-term stability, as it helps to assess a school’s sustainability over a period of time in an uncertain funding environment. A positive cash flow over time generally indicates increasing financial health and sustainability.

This indicator and accounts for **10 percent** of a school’s aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Current Year Cash Flow is positive (+) and having an upward trend over three years or more	Current Year Cash Flow is positive (+) and having an upward or a down trend over three years or more	Current Year Cash Flow is either positive or negative (+/-) and having an upward or a downward trend over three years or more	Current Year Cash Flow is negative (-) and having an upward or a downward trend over three years or more	Current Year Cash Flow is negative (-) and having a downward trend over three years or more

**Total Margin**

$$\text{Total Margin} = \text{Net Income} \div \text{Total Revenue}$$

Total Margin measures the surplus or deficit a school yields out of its total revenues. This indicator is important because a school cannot operate at a deficit for a sustained period of time without the risk of closure. The intent of this indicator is not for the schools to be profitable, but is important for charter schools to operate within its available resources in a particular year and to build a reserve to support growth and sustainability.

This indicator is calculated by dividing net income by total revenue and accounts for **25 percent** of a school’s aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Current Year Margin is positive (+) and having an upward trend over three years or more	Current Year Margin is positive (+) and having an upward or a downward trend over three years or more	Current Year Margin is either positive or negative (+/-) and having an upward or a downward trend over three years or more	Current Year Margin is negative (-) and having an upward or a downward trend over three years or more	Current Year Margin is negative (-) and having a downward trend over three years more

## Planning & Budgeting

### Budget Variance

*Budget Variance = Actual Total Revenues ÷ Projected Total Revenues in the Charter School's Board-Approved Budget*

The budget variance depicts actual versus projected incoming revenues for a fiscal year. This indicator is important because revenues drive the development of a school's budget. While the per-pupil funding is the primary revenue source for charter schools, there are other sources (e.g. federal funds, grants, other state funds) that provide the basis for determining costs such as staffing and supplies. A budget based on revenues that are significantly more than its actual revenues may be at-risk of not meeting all of its budgeted expenses. Budgeted revenues that do not exceed actual revenues would not have a significant impact to the risk assessment rating scale.

This indicator accounts for **10 percent** of a school's aggregate final risk assessment.

Low	Acceptable	Moderate	High	Significant
Variance is greater than (>) 99%	Variance is between 96% – 98%	Variance is between 94% – 95%	Variance is between 91% – 93%	Variance is less than (<) 90%

## Financial Management and Oversight

### Compliance

The Commission ensures that the school complies with applicable laws, rules, regulations and provisions of the charter contract relating to financial reporting requirements, and to financial management and oversight expectations as evidenced by an annual independent audit or review, including but not limited to:

- (a). Complete and on-time submission of financial reports, including annual budget, revised budgets (if applicable), periodic financial reports as required by the authorizer and any reporting requirements if the board contracts with an Education Service Provider (ESP)
- (b). On-time submission and completion of the annual independent audit and corrective action plans, if applicable
- (c). No charging of tuition
- (d). Adequate management and financial controls
- (e). All reporting requirements related to the use of public funds

- (f). An unqualified audit opinion
- (g). An audit devoid of significant findings and conditions, material weaknesses or significant internal control weaknesses
- (h). An audit that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report

If the School does not comply with the requirements of this Financial Performance Framework, the School is subject to the Intervention Protocols, provided in Article XVII of this Charter Contract.<sup>1</sup>

As provided in the Charter Contract:

### **Section 17.1 Oversight and Enforcement**

The Commission will manage, supervise, and enforce this Charter Contract. Pursuant to HRS §302D-17, the Commission shall continually monitor the performance and legal compliance of the School under this Charter Contract and hold the School accountable to the performance of its obligations as required by federal and state laws and regulations, the Performance Framework, as well as the terms of this Charter Contract.

The Commission shall have the authority to conduct oversight activities that enable the Commission to fulfill its responsibilities under HRS Chapter 302D, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of HRS Chapter 302D, and adhere to the terms of this Charter Contract. Enforcement of this Charter Contract may include, but is not limited to, taking corrective action, development of corrective action plans, imposing sanctions, non-renewal, revocation, or termination of this Charter Contract.

<sup>1</sup> in accordance with **§302D-17 Ongoing oversight and corrective actions;**

(a) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the Charter Contract.