

Public Education in Hawaii: Past, Present & Future¹

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Public education in Hawaii officially started in 1840 when King Kamehameha III proclaimed a new constitution and a newly formed legislature authorized schools for all children.³ Several historically significant private schools also formed around that time: The King established a school for the children of Alii in 1838;⁴ Protestant missionaries formed a school for their children in 1841;⁵ and Catholic priests formed the first of their schools in 1846.⁶

¹ The initial version of this essay accompanied Professor Roth's presentation at the University of Hawaii-Manoa College of Education's annual [Shiro Amioka lecture](#).

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³ See, e.g., Benjamin O. Wist, *A Century of Public Education in Hawaii, 1840-1940*, Hawaii Education Review (1940) ("no public school structure existed [before 1840] and youth attended private school or none at all"); Maenette K. P. Benham and Ronald H. Heck, *Culture and Educational Policy in Hawai'i: The Silencing of Native Voices*, Lawrence Erlbaum Associates, 1998; Cecil K. Dotts & Mildred Sikkema, *Challenging the Status Quo: Public Education in Hawaii 1840-1980*, Hawaii Education Association (1994), p. 21; See also, *General School Laws of 1840*.

⁴ This was initially called the Cooke School, then the Chief's School, and finally the Royal School. See generally, Samuel P. King & Randall W. Roth, *Broken Trust: Greed, Mismanagement & Political Manipulation at America's Largest Charitable Trust*, University of Hawaii Press (2006), ch. 1.

⁵ See, e.g., Kapunahou: In Celebration of the One Hundred Seventy-Fifth Anniversary of the 1841 Founding of Punahou School, available for purchase at <http://www.uhpress.hawaii.edu/p-9695-9780692531105.aspx>; See also <http://www.punahou.edu/about/history/index.aspx>.

⁶ Saint Louis School has always been a boys school; see <https://www.stlouisalumni.org/about-slaa/history>.

Educational historians would later describe this period as the beginning of “a two-class system of education.”⁷

Protestant missionary acquired the political power needed to Christianize the native population,⁸ and in the early days there was “little observable difference between the [Protestant] missionary and government affairs,”⁹ though the Catholics eventually made inroads. Although the competition was fierce, they shared a common goal of using public education to “elevate the entire Hawaiian nation to a high state of Christian civilization.”¹⁰ The era of deep-seated religion in the public schools eventually ended, so much so that by the turn of the century the legislature had passed a law requiring that the public schools be secular.¹¹

The monarchy’s Minister of Public Education was in charge of public education in the early days, but that function passed to an appointed Board of Education in 1855.¹² In 1964, five years after statehood, a constitutional amendment replaced the appointed board with an elected one.¹³ But then in 2010 the voters changed course again, this time reverting back to an appointed board.¹⁴ Despite these changes in how the people at the top were chosen, the system has always been highly centralized. Historians have consistently treated this as the distinguishing characteristic of Hawaii’s governance structure for public education.¹⁵

Hawaii’s uniqueness has long included centralized funding, with the bulk of school operating expenses paid out of the general funds, first of the kingdom, then the republic, the territory, and finally the state (as opposed, for example, to property tax mill levies that would inevitably result in more funding in rich areas and less in poor ones). Funding battles have

⁷ Kamari Maxine Clarke and Deborah A. Thomas, *Globalization and Race*, Duke University Press, 2006; Ralph K. Stueber, “Hawaii: A Case Study in Development Education 1778-1960” (PhD. Diss., University of Wisconsin, 1964), 44; Dotts & Sikkema, p. 20. Another now-prominent private school in Hawaii, Iolani, was established by Anglican missionaries in 1863, see <http://www.iolani.org/about/history/timeline>. As of 2015 there were 118 private schools in Hawaii, according to the Hawaii Association of Independent Schools, see <http://www.hais.org/uploads/file/Private%20School%20Enrollment%20Report%20-%20Website.pdf>); another group put the number at 147, see <http://www.privateschoolreview.com/hawaii>.

⁸ Benham & Heck, p. 21 (“Various Christian churches . . . competed among themselves for political power as a means of institutionalizing their religious beliefs through educational practices”); Dotts & Sikkema, p. 221 (“In Hawaii, the missionaries used the public schools as the primary vehicle to bring about the conversion of the Hawaiian people to Christianity, and to create a society dominated by its values, beliefs, and attitudes.”).

⁹ Lawrence H. Fuchs, *Hawaii Pono: A Social History*, Harcourt Brace Jovanovich (1984); see also Stueber, p. 44.

¹⁰ Dotts & Sikkema, p. 23; see also Circular to all School Inspectors, Teachers, Trustees and Treasurers connected with the Department of Public Instruction of His Majesty’s government, July 3, 1855 (State Archives).

¹¹ Dotts & Sikkema, pp. 25 and 42.

¹² Reorganization Act of 1855; see also Dotts & Sikkema, pp. 22-23.

¹³ See e.g., [https://ballotpedia.org/Hawaii_Board_of_Education_Amendment,_Question_1_\(2010\)](https://ballotpedia.org/Hawaii_Board_of_Education_Amendment,_Question_1_(2010)).

¹⁴ See e.g., Catherine Payne & Randall Roth, Appointed school board would help accountability, Honolulu Advertiser, Oct. 4, 2010, at <http://www.staradvertiser.com/2010/10/04/editorial/appointed-school-board-would-help-accountability/>; George Ariyoshi, John Waihee & Ben Cayetano, Changing the School System to Put Our Children First, Hawaii Business, May, 2010, at <http://www.hawaiibusiness.com/changing-the-school-system-to-put-our-children-first/>; House, Senate agree on appointed school board, Honolulu Advertiser, Feb. 10, 2011, at <http://www.staradvertiser.com/2011/02/10/breaking-news/house-senate-agree-on-appointed-school-board/>.

¹⁵ See, e.g., Oren E. Long, “Education in Hawai‘i,” *The Honolulu Advertiser*, 6/23/59, p. 17 (Long had been a Superintendent of Public Instruction and Territorial Governor; along with Hiram Fong, he represented Hawai‘i in the U.S. Senate immediately following Statehood.). See also Dotts & Sikkema, p. 42 (“It is an extreme form of centralization that is not typical of other public school systems in the United States.”).

therefore involved all the public schools, rather than individual communities, and have usually focused on the system's ability to recruit and retain good teachers. Such disputes raged at various times during the monarchy, republic, territory, and statehood periods.¹⁶ For slightly more than a hundred years advocates for an adequately funded, full-and-free public education for all children periodically squared off against politically connected businessmen, such as the sugar planters, who for many years advocated against post-elementary public education, and who often also contended that parents should bear some of the costs of their children's education.¹⁷

Part of the reformers' argument was that the amounts being spent on public education were small for such a wealthy place as Hawaii. For example, when they advocated in 1910 for a property tax mill levy that would supplement general funds from the territory, the reformers pointed out that Hawaii's per-capita production of wealth was higher than the average in the United States at that time while the per-capita amount spent on public education was significantly lower (\$2.07 to \$3.66).¹⁸ Reformers also pointed out that relatively few of the island's business and political elite sent their own children to the public schools at that time.¹⁹

The percentage of Caucasian students in the Hawaii's public schools has always been relatively low. In 1908, for example, Caucasians comprised less than 3% of the students, while the percentage of Hawaiians and part-Hawaiians was 33%.²⁰ In 1920, 40% of the teachers were Caucasian, 25% were Hawaiian or part-Hawaiian, and 12% were Portuguese.²¹

Beginning in 1920 the education department (at that time and for many years known as the Department of Public Instruction, but now known as the Department of Education) designated certain schools as English standard schools, with admission based on a student's existing ability to speak and use the English language property. Although race-neutral on its face, this facilitated a segregation of sorts and was viewed by critics as an attempt to create a two-class system *within* the public education system, "one for Caucasians and another for non-Caucasians."²² The English standard schools officially ended in 1946, but the phase-out took until 1961.²³

Unlike public education in the continental United States, the person or persons responsible for operating Hawaii's public schools have never had control of education funding. Rather than the school board, Hawaii's legislature has decided how much, at most, could be spent on public education in any one year. Even that amount of allocated funds have been subject to ad hoc spending restrictions imposed by someone else (i.e., the King during the monarchy or, later, by the chief executive of the republic, territory, or state). The legality of this

¹⁶ See Dotts & Sikkema generally, including p. 43

¹⁷ Dotts & Sikkema, p. 43; also p. 132 (For years after WWII "the opposition of the planters to public education beyond sixth grade for non-Caucasian children continued").

¹⁸ The School Fund Commission Feeler, *The Friend* 67, no. 2 (Feb. 1910).

¹⁹ *Ibid.*

²⁰ Dotts & Sikkema, p. 58

²¹ Dotts & Sikkema, p. 63.

²² Dotts & Sikkema, p. 110; see also pp. 104-5 (Although these schools enrolled non-Caucasians, they "became a symbol of Caucasian disdain for the non-Caucasian population").

²³ Dotts & Sikkema, p. 105

structure was first upheld in 1895 by the republic's attorney general,²⁴ and then, more convincingly, in 1989 by the state supreme court.²⁵

There have been periodic battles over more than just the level of funding. Beginning in the late 1800s, for example, teachers have occasionally complained about their inability to deviate from a rigid curriculum and teaching methods that focused on memorization, repetition, and uniformity. Consider, for example, a quote from a 1904 report:

“Teachers were given instructions for the course of study specifically designating the content to be covered, the time in which it was to be accomplished, and were told that it was to be graded according to the series of textbooks in use in the schools. Each teacher was required to make out daily and term plans for the work, the term plan being submitted to the principal for approval and made out under his directions. Teachers' proficiency was rated according to the percentage of children who passed the system-prepared examinations.”²⁶

The system's supporters touted a high literacy rate as proof that a top-down, one-size-fits-all approach worked. Critics argued that Hawaii's relatively high literacy rate obscured a low standard of “real education”;²⁷ formalistic teaching (e.g., rote learning) did nothing for a student's capacity to think, to experiment, to imagine; and it actually discouraged teachers from being creative. A rigid learning system imposed from central administration required “submission to authority—both for teachers in regard to the system and pupils in relationships with teachers.”²⁸ Each time teachers rebelled against such an approach, however, there were other teachers who said they were comfortable with the way things were being done.²⁹

These battles for greater flexibility in the classroom included a topic that today is called special education. In the early days of the territory, for example, reformers complained about not just the public education system's inability or refusal to recognize that students learn in different ways and at different paces, but that some children were “handicapped” in ways that made it impossible for them to progress along with the other children.³⁰ The superintendent at that time reportedly ended the debate by requiring that such children be segregated from the other children, a move that was reportedly popular among most the teachers.³¹

During debates over funding, curriculum, and teacher independence, critics of the status quo would often decry what they considered a poor quality of public education in Hawaii. In relatively recent times, critics have attempted to prove their case with objective indicators of quality, such as standardized tests. It may be worth mentioning that a United States

²⁴ BOE minutes, Aug. 1 and Sept. 24 and 26, 1895.

²⁵ See Board of Education vs. Waihee, 70 Haw. 253 (1989).

²⁶ Territory of Hawaii, Report of the Superintendent of Public Instruction to the Governor of the Territory of Hawaii for the year ending December 31, 1904.

²⁷ Dotts & Sikkema, p. 34

²⁸ Dotts & Sikkema, p. 56.

²⁹ Dotts & Sikkema, p. 101.

³⁰ Horne, “Educational Needs,” *The Friend* 65, no. 1 (Jan. 1908), as cited in Dotts & Sikkema, p. 60

³¹ Dotts & Sikkema, p. 61.

Congressional Subcommittee on Education declared Hawaii's public schools to be on a par with public education in the United States as of 1898.³² Then again, that may have been politically inspired by politicians wanting to increase the chances of annexation later that year.

A thorough federal study of Hawaii's public schools two decades later concluded that public education in Hawaii was grossly deficient: In fact, it sharply criticized just about everything about the system, including the teachers, administrators, facilities, curriculum, and level of funding.³³ It recommended wholesale revision to the way teachers were being recruited, evaluated, paid, promoted, and dismissed.³⁴ The study also expressed concern about the ability of existing principals to provide the needed level of instructional leadership.³⁵

That 1920 federal study foreshadowed recent controversy over extensive use of standardized tests to evaluate and compensate teachers. Teachers at the time of the study expressed resentment that they were being individually rated based on the number of their students who could pass a standardized exam that had been prepared by central administrators.³⁶ A leading reformer had written in 1919 that "excessive routine examinations violate not only the best educational principles—they violate ordinary common sense."³⁷ Perhaps it is not a mere coincidence that teachers' associations on most of the islands and the Hawaii Education Association all formed around that time.³⁸

Another aspect of that particular federal study foreshadowed later battles over early education. It sharply criticized Hawaii for not having kindergartens, particularly given the number of immigrants coming to the territory: "No single more important step in Americanizing the children of the foreign-born can be taken than in the establishment of kindergartens."³⁹

The school board has long been responsible for selecting and overseeing a superintendent who would run the department. But that has not always been the case. Regardless of who was doing the selecting, there has often been controversy over the type of person who should be running the education system. In 1914, for example, the governor appointed a non-educator who proceeded to impose "a business-oriented formalist philosophy of education."⁴⁰ A territorial

³² Bean, Thomas W. and Jan Zulich, "Education in Hawai'i: Balancing Equity and Progress, in *Politics: Public Policy in Hawaii* (1992) ("By 1898 when Hawai'i was annexed to the United States, Hawai'i's system was by the United States Congressional Subcommittee on Education as equal to mainland systems of education.").

³³ U.S. Office of Education, *A Survey of Education in Hawaii* (Bureau of Education, Department of the Interior, Washington, D.C., Government Printing Office Bulletin, 1920, no. 16): 6, cited in Dotts, p. 71.

³⁴ Dotts & Sikkema, pp. 192-193 (describing such exams as "hanging like Damocles sword over the classroom.")

³⁵ *Ibid.*, pp. 76-78.

³⁶ Wist, "A Century of Public Education in Hawaii (Honolulu: Hawaii Educational Review, 1940), 154-5, and Territory of Hawaii, Report of the Superintendent of Public Instruction to the Governor for the Biennium ending December 31, 1914, p. 10, as cited in Dotts & Sikkema, p. 62.

³⁷ MacCaughey, "Examinations," *Hawaii Educational Review* 7, no. 4 (April 1919): 8, as cited in Dotts & Sikkema, p. 88.

³⁸ Territory of Hawaii, *Hawaii Public Schools, Biennial Report of the Department of Public Instruction, 1921-22, 12*, as cited in Dotts & Sikkema, p. 94.

³⁹ *Ibid.*, pp. 70-75.

⁴⁰ Wist, "A Century of Public Education in Hawaii (Honolulu: Hawaii Educational Review, 1940), 154-5, and Territory of Hawaii, Report of the Superintendent of Public Instruction to the Governor for the Biennium ending December 31, 1914, p. 10, as cited in Dotts & Sikkema, p. 62.

senator at that time suggested that having educators in charge of the schools would have made no more sense than would hiring a technical expert—rather than a businessman—to run a plantation.⁴¹

Regardless of who selected the superintendent, the education department has consistently demonstrated a remarkable ability to fight off reform efforts, especially anything that would decentralize the system in any meaningful way. There have been numerous pilot programs that died due to lack of support from central administration. A typical example was the Kawanakoa Experimental School, which existed from 1927 to 1938.⁴² That school's principal had talked the school board into granting those teachers the freedom to adjust their methods to the needs of their particular students. Many of the school's teachers expressed enthusiasm with having the freedom to try this, but others resisted. None received special training and no additional funds were allocated to support the experiment. Even so, it seemed to be working quite well, but then lost steam when the school's principal took another assignment and central administration replaced him with a man who was not comfortable deviating from the department's standard way of doing things.⁴³

Around that same time, the principals of McKinley High School, Miles Cary, expressed concern that the people who controlled public education were “apparently not interested in seeing their circle entered by young people of the immigrant laboring class.”⁴⁴ He also railed against institutionalized formalism in education, saying that memorization had nothing to do with learning. He defiantly encouraged the teachers at his school to do whatever it took to help students develop “the ability to think, a desire to serve one's community, intelligent attitudes toward world affairs, willingness to cooperate with others, appreciation of the rights of others, respect for law, intelligent appreciation of literature, music, and the beauties of nature, and how to keep healthy in mind and body.”⁴⁵

Carey believed that (1) true education for the students was possible only if the teachers were thinking creatively and learning their own lessons as they helped the students do the same, (2) dictates from above, even good ones, were counterproductive if classroom teachers did not believe in them, (3) educational policies, programs, and practices needed to evolve constantly, even ones that have been successful in the past, and (4) all change should be driven by innovations and creative thinking from inside the schools, rather than by experts and consultants from outside the schools.⁴⁶ Although Carey was sharply criticized from within and outside of the department,⁴⁷ he created an environment that was both unique and exciting. Many of the students during that period eventually assumed leadership positions in Hawaii and elsewhere.⁴⁸

⁴¹ Honolulu Star-Bulletin, March 3, 1923, as cited in Dotts & Sikkema, p. 99.

⁴² Department of Public Instruction, Kawanakoa Experimental School: A Brief Statement of History, Objectives, Method and Curriculum, 1929, 8.

⁴³ Dotts & Sikkema, p. 115.

⁴⁴ Miles Cary, “a Vitalized Curriculum for McKinley High School” (MA thesis, University of Hawaii, 1930).

⁴⁵ Ibid.

⁴⁶ M. Roseamonde Porter, Perspective on Becoming a Teacher (Honolulu: College of Education, University of Hawaii, June 1973), 1 (based on a study conducted several decades earlier), as cited in Dotts & Sikkema, p. 121.

⁴⁷ Dotts & Sikkema, p. 123.

⁴⁸ Several examples are Sen. Daniel Inouye and Gov. George Ariyoshi.

When Carey left the state in 1947, central administrators replaced him with a more conventional principal and McKinley gradually lost its aura as a public school unlike any other in Hawaii.⁴⁹ Historians have marveled that Carey managed to survive in the department as long as he did, much less forge so much change at his school, because “the pattern in the [Department of Education] was essentially one of rejection of dynamic change, of terminating experimental or innovative programs rather than building on them.”⁵⁰

There have been many outside studies of Hawaii’s education system. Some were complimentary but most were critical. For example one that was done shortly before WWII advised that “a number of principals and teachers should be dismissed or retired under proper annuities if there was not very great improvement in the quality of their service to the children.”⁵¹ Another around that same time criticized the authoritarian culture in central administration and decried a lack of true leadership anywhere in the system.⁵² That team of experts described Hawaii’s public education system as overly centralized and run by central administrators who sought blind compliance from school personnel. Echoing criticism from many earlier reports, this one pointed out that central administrators were “more intimately related to the operation of each school than the Department of Education in any of the states.”⁵³ As have many other studies over the years, this one strongly recommended that the department decentralize and give each school greater say in curricular, financial, and personnel decisions.⁵⁴

Some commentators have suggested a direct relationship between Hawaii’s approach to public education (i.e., centralized, authoritative, reliance on standardization) and the ways of the so-called Big Five companies that dominated Hawaii economically and politically for many years.⁵⁵

There were occasional efforts by school-level personnel during the 1940s to operate independently of central administration (in addition to Miles Carey at McKinley High School). One was lead by a group of principals from rural Oahu,⁵⁶ another by principals and teachers on the Big Island.⁵⁷ A member of the latter group noted the need for teacher involvement: “As we progress and move away from the idea of carrying out orders from above, we realize the need for cooperative effort on the part of teachers to plan and solve their own problems.”⁵⁸

⁴⁹ Dotts & Sikkema, p. 122-132

⁵⁰ Dotts & Sikkema, p. 124.

⁵¹ Elizabeth M. Collins, “Comments and Suggestions Based Upon Experience in the Schools following the Survey Report presented in April, 1941,” *Hawaii Educational Review* 33, no. 6 (Feb. 1945): 169-70, as cited in Dotts & Sikkema, p. 148.

⁵² Draper and Hayden, *Hawaiian Schools*, Preface xi, as cited in Dotts & Sikkema, p. 140.

⁵³ Draper, pp. 71-72.

⁵⁴ Dotts & Sikkema, p. 152.

⁵⁵ Carol S. Dodd, “Power Through Centralization: Race, Politics and Education in Hawaii, 1840-1970” (Ed.D. diss., University of Hawaii, 1980), 68; see also Dotts & Sikkema, pp. 102-103 (“Control of educational methods and curriculum development was held by a few. Teachers were apparently regarded as having inadequate preparation to participate in these important educational tasks.”).

⁵⁶ The Principals of Rural Oahu, “A Point of View in Education,” *Hawaii Educational Review* 32, no. 10 (June 1944): 297, as cited in Dotts & Sikkema, p. 154.

⁵⁷ Peter T. Hirata, “The Kona Institute,” *Hawaii Educational Review* 38, no. 8 (April 1950): 197-98, as cited in Dotts, p. 154.

⁵⁸ *Ibid.*

In 1946 a group of middle school principals staged a summer workshop that resulted in development of a blueprint for reform called, “A Charter for Education in Hawaii: A Guide for the Development of Educational Policy.”⁵⁹ It called on teachers to deemphasize formalistic, rote learning and instead “stimulate students to pursue a rigorous reexamination of the beliefs they hold, the foundation on which they rest, and their consequences on human living.”⁶⁰ It suggested that such a transformation “begin with rigorous self-examination and rock-solid moral integrity,” and that each school “resist the temptation to exist by virtue of its authority as an institution and [instead solve] common problems through the shared leadership of students and faculty...”⁶¹ The department’s central administration did not support the blueprint.⁶² Ironically, the superintendent saw the blueprint as a sign that the school-level personnel needed even more structure and guidance from above.⁶³

A report prepared several years before statehood criticized the quality of public education in Hawaii at that time, and blamed the shortcomings on inadequate funding: “If the people want better schools, they can relatively easily afford them.... Compared to public school systems in the United States, Hawaii is spending only about 80-85 percent as much as the average and far less than the best.”⁶⁴ That same report described the department’s central administration as impersonal, controlling and authoritarian, and recommended that the public schools be “decentralized with respect to local adaptability, budgetary development and administration, and in supervision and means of providing services to schools.”⁶⁵

Around that same time (i.e., shortly before statehood), there was also extensive discussion of ways to include the counties in the funding of public schools to give local communities more involvement in the funding of their local schools,⁶⁶ but the 1967 legislature went the opposite direction, and completely eliminated the modest role previously played by the counties.⁶⁷ An already highly centralized system became even more centralized, and state legislators ended up with even greater control over school finances than they had previously.⁶⁸

At the Time of Statehood

When Hawaii became a state in 1959, there were 135,700 public-school students—or 83.9 percent of elementary and secondary students statewide.⁶⁹ The per-student level of spending was well below the national average, \$372 versus \$481.⁷⁰ (That equates to ⁷¹\$3,059

⁵⁹ Department of Public Instruction, “A Charter for Education in Hawaii: A Guide for the Development of Educational Policy” (Aug. 30, 1947), as cited in Dotts & Sikkema, p. 159.

⁶⁰ Ibid.

⁶¹ Dotts & Sikkema, p. 159.

⁶² Dotts & Sikkema, p. 162.

⁶³ Dotts & Sikkema, p. 162.

⁶⁴ William Odell et al., School Survey, “Summary Report,” 1, as cited in Dotts & Sikkema, p. 166.

⁶⁵ Odell, p. 10, as described and cited by Dotts & Sikkema, at p. 169.

⁶⁶ Odell et. Al., School Survey, “Social Setting, Organization and Finance,” 161-164; but see Dotts & Sikkema, p. 52.

⁶⁷ Session Laws of Hawaii, Fourth State Legislature, 1967.

⁶⁸ Dotts & Sikkema, p. 168.

⁶⁹ Long *supra* note 3.

⁷⁰ CORE report (1974); “Johnny’s class Getting Smaller, Says Isle Report,” Honolulu Advertiser, Oct. 8, 1966.

versus \$3,954.80 in 2016 dollars.) A spokesman for Hawaii’s education department said this comparison was misleading because the absence of local school boards makes it possible to get the job done in Hawaii for less money: “The States pay more for staffs because of expensive duplication.” He added that the relative smallness of Hawaii’s land area resulted in lower transportation costs, and that Hawaii’s tropical climate eliminated the need for “the more expensive type buildings required by extreme winter weather.”⁷² The first governor after statehood, William Quinn, pushed for increased funding. By the end of his term in 1962 Hawaii’s per-student level of funding was above the national average.⁷³

The average class in 1959 had nearly 30 students in Hawaii, which was 8 more than the national average.⁷⁴ Despite this, parents were generally satisfied with the perceived quality of educational opportunity.⁷⁵ More than 70,000 parents belonged to the Parents and Teachers Association (PTA)—nearly 12% of the state’s population.⁷⁶

An unpaid, appointed Board of Education provided oversight to the education department—known then as the Department of Public Instruction—which was headed up by a superintendent.⁷⁷ The question of whether school board members should be appointed or elected was hotly debated at that time:

“Public debate over the proposed Constitutional amendment providing for an elected State School Board grows hotter as the Legislature nears a decision. . . . Legislation pending at Iolani Palace proposes that the panels be elected. The Hawaii Congress of Parents and Teachers is working for an elected Board. Favoring an appointed Board are the teacher professional organization, Governor Quinn, and the Department of Public Instruction. Generally, Republicans support the appointive system, Democrats favor election.”⁷⁸

The *Honolulu Advertiser* favored an appointed Board, partly out of concern over “the possible intrusion of partisan politics into the schools under an elective system.”⁷⁹ The *Advertiser* added, “Hawaii is highly partisan in public affairs, schools would be no exception.”⁸⁰

⁷¹ Using U.S. Dept. of Labor CPI Inflation Calculator at http://www.bls.gov/data/inflation_calculator.htm.

⁷² “Isle Per-Pupil Costs Are Called Misleading,” *Honolulu Star-Bulletin*, Apr. 25, 1959.

⁷³ “Isle Per-Student Cost Tops Average,” *Honolulu Advertiser*, Dec. 31, 1962.

⁷⁴ “Hawai‘i Public Schools Fall short Of Standards for Accreditation,” *Honolulu Star-Bulletin*, Mar. 22, 1961.

⁷⁵ See generally, 1960-61 Hawai‘i Dept. of Education Annual Report; Legislative Reference Bureau, REF # LB2809 H38 H3; “Hawai‘i Public Schools Fall Short of Standards for Accreditation,” *Honolulu Star-Bulletin*, Mar. 22, 1961.

⁷⁶ Oren E. Long, “Education in Hawai‘i,” *The Honolulu Advertiser*, June 23, 1959, at 17.

⁷⁷ See generally, “Board Holds First and Last Meeting,” *The Honolulu Advertiser*, Aug. 17, 1961 (the Department of Public Instruction changed its name to the Department of Education, and the Commission on Public Instruction--which headed up the Department of Public Instruction--changed to Board of Education).

⁷⁸ Editorial, “School Board Pros and Cons,” *Honolulu Advertiser*, Oct. 14, 1959. See, e.g., “Governor Signs Compromise Bill on Board of Education,” *Honolulu Advertiser*, July 12, 1961; Craig, “Citizens want elected school board according to poll,” *Honolulu Advertiser*, Sept. 10, 1961; “Soon: A New School Board,” *Honolulu Advertiser*, July 13, 1961; “PTA Backs School Board Referendum,” *Honolulu Star-Bulletin*, February 17, 1961.

⁷⁹ *Id.*

⁸⁰ *Id.*

The public strongly favored an elected school board, 57 percent to 22 percent (the remaining 21 percent had no opinion).⁸¹ Gov. Quinn worked out a compromise with the 1961 legislature whereby the governor would continue to appoint the members of the school board, but would select only from lists provided by elected members of local advisory councils in each of the counties.⁸²

Another widely debated question was whether responsibility for school facilities should be moved from the counties to the State. Samuel Wilder King was the governor who first raised this issue. According to King, dividing responsibilities between the counties and the territory had resulted in “buck-passing and confusion.”⁸³ That shift eventually happened in 1964.⁸⁴

Average teacher pay in 1959 was \$4,850 (\$39,877 in 2016 dollars)—a number that both political parties said was too low.⁸⁵ The Republicans were pushing for “a single pay schedule for all teachers, vice-principals, principals and administrative personnel,” but the Democrats opposed that because it ruled out the possibility of merit-based pay raises.⁸⁶ The *Honolulu Star-Bulletin* considered it “something of a surprise” that the Republicans were calling for an investigation of “the lack of standardized school design, the requiring of teaching certificates for purely administrative jobs, and the DPI’s promotion system”—because the DOE was technically a part of Quinn’s administration.⁸⁷ The system was under stress because the school-age population was growing rapidly.⁸⁸

Quinn’s successor, Gov. John A. Burns described education as his top priority⁸⁹ and made clear in his inaugural address that he wanted an elected school board.⁹⁰ The Constitution was changed two years later in 1964 to provide for popular elections of school board members.⁹¹ Burns told his cabinet that he would “beef up” education “even if it means cutting funds for other State departments and asking the Legislature for a tax increase.”⁹² The head of the teachers’ professional association suggested that public education in Hawaii could be second-to-none if only more money were devoted to it:

⁸¹ Craig, *supra* note 12.

⁸² “Governor Signs Compromise Bill On Board of Education,” *Honolulu Advertiser*, July 12, 1961.

⁸³ See, e.g., O’Neill, “State Urged to Take County School Role,” *Honolulu Star-Bulletin*, Oct. 17, 1962, and “School Financing Is Thorny Problem,” *Honolulu Star-Bulletin*, December 3, 1962.

⁸⁴ Needs citation*

⁸⁵ Parmiter, “School System Changes Planned by Both Parties,” *Honolulu Star-Bulletin*, Apr. 24, 1958, at 11. \$4,850 inflated by the consumer price index is \$35,810 for 2009, according to <http://www.measuringworth.com/uscompare/>, last visited Aug. 18, 2009.

⁸⁶ *Id.*

⁸⁷ *Id.* (“These sections of the BOP plank have raised eyebrows because, as one Democrat puts it: ‘It’s like the Republican national convention promising to have Congress investigate Eisenhower.’ The [DOE] is an arm of the Territorial executive. And its policies therefore are the policies of Governor Quinn’s Republican administration.”).

⁸⁸ See, e.g., “Will Summon Legislature if Needed,” *Honolulu Star-Bulletin*, April 15, 1958, and “11 Schools Face Double Shifts by ’59,” *Honolulu Advertiser*, Jan. 28, 1958.

⁸⁹ Hunter, “Education Will Come First, Burns Says of Budgeting,” *Honolulu Advertiser*, page 1, Nov. 30, 1963.

⁹⁰ “3 Moves Seen For Hawai‘i Education,” *Honolulu Advertiser*, December 22, 1962, at 1.

⁹¹ Hawai‘i State Constitution, Article X, Section 2.

⁹² *Id.*; See also, Kaser, “Legislature ‘gave moon’ for education in Hawai‘i,” *Honolulu Star-Bulletin*, May 29, 1965.

“Hawaii ... now spends 4.5 percent of total personal income on elementary and secondary schools. That national average is 4.3 percent. If Hawaii will devote an additional one percent of its personal income to public education, our public educational system can attain the excellence which our people seek.”⁹³

In 1962, a news reporter asked an assistant superintendent about specific innovations being tested in some mainland school districts.⁹⁴ After first making clear that members of the Department of Education (DOE)⁹⁵ were well aware of the new concepts in education, the assistant Superintendent cautioned parents to be realistic:

“Parents in Hawaii must remember that the wealthy suburban systems [on the mainland] are small and can move rapidly. They are completely independent to act. ... It would be folly for Hawaii, the ninth largest school system in the country, to move as rapidly.”⁹⁶

In 1962-63, a highly regarded administrator from the mainland spent an academic year as principal of Wahiawa Elementary School as part of an exchange program.⁹⁷ Afterward, he wrote that the people in Hawaii’s education system were “heroic,” because they toiled daily despite “overwhelming frustrations.”⁹⁸ He wrote that “crackpots and demagogues love to get on school boards,”⁹⁹ and he suggested that Hawaii’s schools needed fiscal autonomy and more flexibility with respect to personnel:

“I suspect that in your noble regard for seniority rights you may have built a rigid mechanism that runs you. [Changing this] might enable you to shake some moss loose and prevent rigor mortis from setting in.”¹⁰⁰

The DOE’s mission at that time was to provide “a lasting understanding of our American cultural and spiritual background,” and to help each pupil achieve “the best growth of his abilities for useful living.”¹⁰¹ Gov. Burns told the public that he intended to decentralize the DOE, which was not necessarily at odds with equality of funding:¹⁰²

“Centralized funding for education need not result in centralized or standardized decision-making. A persuasive case can be made for decentralizing decision-

⁹³ “High Hawai‘i Rank Seen in Education,” Honolulu Advertiser, page D-2, Feb. 16, 1967 (quoting Daniel W. Tuttle Jr.).

⁹⁴ “Isle Schools Proud of Educational Strides,” Honolulu Star-Bulletin, Nov. 3, 1962, at 17.

⁹⁵ In 1961, the Department of Public Instruction was renamed Department of Education; See generally, “Board Holds First and Last Meeting,” The Honolulu Advertiser, Aug. 17, 1961.

⁹⁶ “Isle Schools Proud of Educational Strides,” Honolulu Star-Bulletin, Nov. 3, 1962, at 17. As of 2010, Hawaii was reportedly the tenth largest. See

https://en.wikipedia.org/wiki/List_of_the_largest_school_districts_in_the_United_States_by_enrollment.

⁹⁷ Needs cite- same as below? Need newspaper*

⁹⁸ O’Neil, “Exchange Principal: Isle Schools Succeed Despite Great Odds,” Honolulu Star-Bulletin, May 23, 1963, at 1B.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Long, *supra* note 3.

¹⁰² *supra* note 16.

making in various areas because schools have different clienteles and because the most knowledgeable persons to deal with a problem are oftentimes those closest to the children and the community. Such an approach starts with the role of personnel in the individual school or group of schools, rather than starting at the state office.”¹⁰³

The Honolulu Advertiser editorialized that decentralization should be easy for Burns to achieve, because the superintendent at that time was known to favor it and no new law would be required: “Being basically an administrative move, decentralization should not be difficult.”¹⁰⁴ Despite this initial optimism, however, the system would remain highly centralized throughout Burns’ 12 years in office, and, as is detailed later in this paper, future governors Waihee, Cayetano, and Lingle would also unsuccessfully attempt to decentralize the system. Gov. Neil Abercrombie supported decentralization as a candidate in 2010,¹⁰⁵ but took no action as governor to make it happen.

Another longstanding aspect of Hawaii’s public-education system noted by Burns and subsequent governors is that the DOE/BOE¹⁰⁶ has no control over the level of funding and only shared control over spending decisions.¹⁰⁷ The legislature decides how much money to appropriate and has the power to decide how the money must be spent (known as categorical spending, line-item budgeting, and earmarking), then the governor gets to decide whether to release money that the legislature has appropriated.¹⁰⁸

To the DOE/BOE’s consternation, the legislature has regularly involved itself in spending decisions, and every governor since statehood has restricted spending selectively (rather than on a lump-sum basis that would allow the DOE/BOE to choose where to make any necessary cuts).¹⁰⁹ Because this unusual arrangement has existed for so long in Hawaii, most people simply take it for granted. Members of the school board in particular have criticized this as “usurping” their prerogative:

“The legislature is doing [what] the BOE should do. The superintendent is [treated] almost as though he were the executive officer of the legislature, instead of, as the Constitution indicates, the executive officer of the BOE. The only reason ... this does not seem a major scandal, is simply that it has been going on for so long.”¹¹⁰

¹⁰³ CORE Report (1974), p. A-26

¹⁰⁴ *supra* note 16.* [make sure the footnote in question is still footnote 16]

¹⁰⁵ Neil Abercrombie, *A New Day in Hawaii – A Comprehensive Plan*, 12 (2010) available at http://governor.hawaii.gov/wp-content/uploads/2012/09/AFG_ANewDayinHawaii_2010.pdf

¹⁰⁶ The BOE is a part of the DOE in the same way a corporation’s board of directors is part of that corporation. See Hawaii’s State Constitution, Article X, Sec. 2.

¹⁰⁷ See Board of Education vs. Waihee, 70 Haw. 253, 265 (1989).

¹⁰⁸ See Board of Education vs. Waihee, 70 Haw. 253 (1989); The Center for Public Education, *supra* note 4.

¹⁰⁹ Categorical funds must be spent for specific purposes set forth by the Legislature, or by Congress. Examples of the categories include vocational education, Hawaii’s studies, ROTC, school lunches, and athletics. Currently there are more than 300 such categories.

¹¹⁰ “Legislative ‘Control’ In Education Is Rapped,” *The Honolulu Star-Bulletin*, Mar. 6, 1964.

Because the DOE/BOE has no control over the level of funding and only shared control over spending decisions, it arguably cannot be held accountable for low levels of student achievement (i.e., because it had the ready excuse of not controlling the money). But if they aren't in control, who is? A Burns task force suggested that the correct answer was "nobody":

"The Legislature has the primary power of budgeting for the Department of Education and, consequently, can influence or mandate Department of Education programs, policies, directions, [and] activities very heavily. The Governor exercises this kind of power also with his ability to [release or not to release] funds and the Governor also wields other factors of administrative supremacy that can influence Department of Education operations. The public, therefore, is never sure just who is responsible for a particular decision affecting the Department of Education or who is to be held accountable for its policies."¹¹¹

Business leaders have repeatedly stressed the need to know "where the buck stops."¹¹² In 1963, the exchange principal mentioned above marveled at the lack of accountability in Hawaii's system and challenged the competence and appropriateness of non-educators in the legislature and the governor's cabinet who were micromanaging public education:

"You have the problem of the Legislature and the State Budget and Review people making the major policy decisions, right down to how much of the budget goes toward the purchase of textbooks. ... I would inquire as to their competency to make such judgments [and note the] considerable opportunity for the intrusion of political influence."¹¹³

It was unusual for a principal to be so direct in his criticism of the system. In 1966, the superintendent said it was unfortunate that more principals did not voice their concerns and frustrations. He had this to say at a large gathering of principals:

"Do not be afraid to stand up and be counted. Do not be afraid to speak out. This is the only way we are going to achieve results. ... You are just as entitled to a point of view ... as anyone else. ... [Principals] might have an even greater obligation to speak out than other people."¹¹⁴

The principals in that audience then approved a resolution that requested "a definitive statement on the roles and authority of the State Board of Education, the State superintendent, and the legislative and executive branches of government in matters of education."¹¹⁵

¹¹¹ CORE Report, p. A-24

¹¹² *[cite the major BRT reports]*

¹¹³ O'Neil, "Exchange Principal: Isle Schools Succeed Despite Great Odds," Honolulu Star-Bulletin, May 23, 1963, at 1B.

¹¹⁴ "'Speak out,' Jackson tells administrators," Honolulu Star-Bulletin, Dec. 1, 1966, at A-12.

¹¹⁵ "Definitive statement on education roles is asked," Honolulu Star-Bulletin, Dec. 1, 1966, at A-12.

In the 1980s, the DOE/BOE argued in court that governor-imposed spending restrictions “destroyed or limited” the DOE’s ability to operate the schools effectively.¹¹⁶ The DOE/BOE specifically objected to “the current practice of allowing uninformed budget analysts in the [State] Department of Budget and Finance to make detailed decisions in the allocation of the educational budget, and thus, for all practical purposes, formulate policy and exercise control over the public school system.” The Hawaii Supreme Court saw no legal merit in the DOE/BOE’s position: “We have no reason to believe the Governor’s authority ... does not include discretion to restructure ... priorities.”¹¹⁷

With the DOE/BOE, legislature, and governor each trying to run the schools in those days, there were constant problems with coordination, coherence and accountability.¹¹⁸ An expert observer wrote that, “the question of who is in charge here is a real one” and (echoing the Burns Task Force several decades earlier) added, “when everyone is in control, no one is in control.”¹¹⁹

There also have been obvious problems with accountability at the school level, where Hawaii’s principals have historically had relatively little autonomy or authority, and have not been held accountable for results.¹²⁰ Most of the key decisions have long been made outside the schools, and union contracts de-linked each principal’s compensation and job security from student achievement. Because of this, Hawaii’s education system has been described by many as “top-down” and “system-centered,” as opposed to “school-centered.”¹²¹ Education experts outside Hawaii have marveled at the expansive role played by central administration in this state.¹²² Since the following statement was published by one such expert in 1988, the DOE’s role has actually expanded:

Hawaii’s Department of Education encompasses all aspects of education – from planning policy to running schools ... from mandating new programs to evaluating them; and from administering schools to assisting them.¹²³

Governors Burns, Waihee, Cayetano and Lingle, the DOE/BOE, and the legislature each periodically discussed shifting more decision-making to school principals, and some school-oversight responsibilities to local boards or councils. Relatively little came of these debates. In 1989, for example, the legislature authorized what it called School/Community-Based

¹¹⁶ Board of Education vs. Waihee, 70 Haw. 253, 267-268 (1989) (“to plan and efficiently execute ... programs, to set priorities for those programs, hire the necessary personnel, and perform necessary repairs and maintenance of school facilities”).

¹¹⁷ Board of Education vs. Waihee, 70 Haw. 253, 267-268 (1989); See also, HRS Sec. 37-65 and 37-67.

¹¹⁸ George R. Ariyoshi, John Waihee & Ben Cayetano, “Education Reform Must Put Kids First,” Honolulu Advertiser, January 31, 2010, available at <http://the.honoluluadvertiser.com/article/2010/Jan/31/op/hawaii1310341.html>.

¹¹⁹ Roderick F. McPhee, “Public Education,” ch. 4 if The Price of Paradise, Vol. 2, Randall W. Roth, editor (Mutual Publishing 1992).

¹²⁰ See, e.g., Hawai‘i Business Roundtable Position Paper, p. 2, Mar. 2, 2004 (pointing out, for example, that Hawaii is the only state whose principals are all in a union; and a national think tank has described Hawaii’s teachers union as the nation’s most powerful.)

¹²¹ *Id.*

¹²² William Ouchi & Bruce Cooper, “Financial Analysis of Hawai‘i Public Schools,” Nov. 23, 2003.

¹²³ BW Associates, “Educational Excellence for the Pacific Era,” (Berman Report) p. 18, November 15, 1988.

Management, or SCBM. As initially envisioned, SCBM councils would help individual schools to break out of the DOE's top-down, one-size-fits-all mold. For example, SCBM councils would be able to seek waivers from system-wide dictates. In reality, however, it took years to get an answer from central administration, and the teachers union, principals union, and BOE each had a veto power.¹²⁴ Here's how columnist Richard Borreca described the history and eventual impact of SCBM:

“Back in the days of Waihee, the Hawaii Business Roundtable, needing decently educated workers, paid for Paul Berman, a national school reform expert, to draw up a new plan. The 1988 Berman report set forth a 10-year ‘Hawaii Plan’ heralding a ‘radical reform of the state's centralized education system.’ Berman's plan needed School/Community-Based Management Systems (SCBM) which would function almost like local school boards ... Instead, after years of wrangling, SCBM teams would be able to decide whether kids would wear uniforms and little else.”¹²⁵

In 2004, the legislature replaced SCBM with a law that authorizes School Community Councils (SCCs) made up of teachers, parents, students, school staff, and community members (at least one member from each group), plus the school's principal. In practice, the impact of SCCs varied greatly from school to school, but overall turned out to be similarly toothless: A school's SCC can reject one or more of the principal's proposed plans, but lacks the authority to reject the DOE/BOE's decisions for that school, including that school's strategic, academic, and financial plans, or to deviate from statewide policies and procedures.¹²⁶

In 2010, just over 55% of the voters amended the state constitution to replace the elected school board with an appointed one.¹²⁷ Many people thought an appointed board would work better, because the appointing official would seek out individuals with expertise that is diverse and relevant, and that the public would know who to hold accountable (the governor) if the BOE failed to produce acceptable results.¹²⁸ As noted above, this was a particularly controversial

¹²⁴ Provide Lingle's example regarding Lahainaluna's attempt to change its graduation date (in 2003 State of the State address).

¹²⁵ Borreca, “Politicians keep talking, students keep waiting,” THE HONOLULU STAR-BULLETIN, Nov. 30, 2003.

¹²⁶ Policy 500-19 School Community Councils, at

<http://boe.hawaii.gov/policies/Board%20Policies/School%20Community%20Councils.pdf>; Jim Shon, Hawaii Educational Policy Center: School Empowerment, December 2014, at <http://manoa.hawaii.edu/hepc/wp-content/uploads/HEPC-Analyzing-BOE-Policies-RE-School-Empowerment.pdf>; See also School Community Council at Hawaii DOE website, at <http://www.hawaiipublicschools.org/ConnectWithUs/GetInvolved/SCCs/Pages/default.aspx>.

¹²⁷ See e.g., Catherine Payne & Randall Roth, Appointed school board would help accountability, Honolulu Advertiser, Oct. 4, 2010, at <http://www.staradvertiser.com/2010/10/04/editorial/appointed-school-board-would-help-accountability/>; George Ariyoshi, John Waihee & Ben Cayetano, Changing the School System to Put Our Children First, Hawaii Business, May, 2010, at <http://www.hawaiibusiness.com/changing-the-school-system-to-put-our-children-first/>; House, Senate agree on appointed school board, Honolulu Advertiser, Feb. 10, 2011, at <http://www.staradvertiser.com/2011/02/10/breaking-news/house-senate-agree-on-appointed-school-board/>.

¹²⁸ Randall Roth, “Fight education's special interests,” THE HONOLULU STAR-ADVERTISER, Dec. 6, 2010, available at http://www.staradvertiser.com/editorials/20101206_Dear_Gov_Abercrombie.html; Catherine Payne and Randall Roth, “Appointed school board would help accountability,” THE HONOLULU STAR-ADVERTISER, Oct. 4, 2010, available at http://www.staradvertiser.com/editorials/20101004_Appointed_school_board_would_help_accountability.html;

issue in the early 1960s, when Gov. Quinn fought to maintain an appointed school board, and his successor, Gov. Burns, championed the notion of an elected board, which he achieved in 1964.¹²⁹

The push for an appointed board was assisted in early 2010 when three former governors, all Democrats, issued a “manifesto” in which they described the public education system as “broken,” and suggested three major changes, including replacement of the elected BOE with an appointed one:¹³⁰

“Ask yourself: How many members of the Board of Education can you name? What do you know about their backgrounds or their position on education? Most people will have difficulty answering these questions. In contrast, voters closely watch each election for governor and the major issues in those campaigns are well reported and understood. If the governor were accountable for public education, student outcomes and key education issues would be highlighted as a major part of the state’s main political campaign. ... An elected school board may seem more democratic; but few individual voters watch school board campaigns nearly as closely as do the unions that represent teachers, administrators and other employees of the Department of Education.”¹³¹

[*Need to add a section here summarizing the issues and major initiatives during Abercrombie and Ige administrations.*]

The Students in the System

Enrollment in Hawaii’s public schools peaked at 189,281 in 1997-98, which was approximately 84 percent of the total school-age children.¹³² Public school enrollment for 2015-2016 (including 10,422 charter school students) was 180,409. That was 84.5% of the state’s school-age children.¹³³ The percentage of school-age children in Hawaii’s private schools has stayed between 15% and 16% since statehood.¹³⁴ Large school districts that have higher percentages in private schools include New Orleans (25%), San Francisco (20%), Philadelphia (18%), Cleveland (18%), Milwaukee (17%), Cincinnati ((17%), and St. Louis (17%).¹³⁵ Eleven states report a higher percentage of students in private schools.¹³⁶

Katherine Poythress, “Decision Time: Appointed vs. Elected Ed Board,” Sept. 17, 2010, Civil Beat, available at <http://www.civilbeat.com/2010/09/4587-decision-time-appointed-vs-elected-ed-board/>.

¹²⁹ Am HB 421 (1964), Haw. Const., art. X, § 2.

¹³⁰ George Ariyoshi, John Waihee & Ben Cayetano, Changing the School System to Put Our Children First, Hawaii Business, May, 2010, at <http://www.hawaiibusiness.com/changing-the-school-system-to-put-our-children-first/>.

¹³¹ Id.

¹³² The Superintendent’s Ninth Annual Report on School Performance and Improvement in Hawaii—1998, available at http://arch.k12.hi.us/PDFs/state/superintendent_report/1998/SuptRept98.pdf.

¹³³ Dept. of Education, 2015 Superintendent’s 25th Annual Report, available at http://arch.k12.hi.us/PDFs/state/superintendent_report/2015/2015SuptRptFinal.pdf.

¹³⁴ Sally Kwak, “Determinants of Student Achievement in Hawaii,” Unpublished manuscript, prepared for the Statehood Conference, Honolulu, Hawaii, Aug. 21, 2009. See also Hawaii Council of Private Schools, “Private School Enrollment Report 2012-2013,” available at <https://issuu.com/haisconnect/docs>.

¹³⁵ Kolko, “Where Private School Enrollment is Highest and Lowest Across the U.S.,” from The Atlantic, available at <http://www.citylab.com/housing/2014/08/where-private-school-enrollment-is-highest-and-lowest-across-the->

[*I need to reconcile the above with the Washington Post article that says Hawaii and D.C. have the lowest percentage of school-age students in public schools (79%).¹³⁷]

The number and percentage of school-age children in Hawaii who currently are being home-schooled appears to be rising.¹³⁸ In 2013, 7,856 children were being homeschooled, about 4%. It is not clear whether these students are categorized and reported by the DOE as being in private schools, public schools, or simply off the grid.¹³⁹

Hawaii's public school system is the nation's 10th largest.¹⁴⁰ Empirical studies show that large systems tend to have large schools, and Hawaii is no exception: for example, the average number of students in Hawaii's high schools is 1,570, nearly double the national average of 768.¹⁴¹

Membership in the PTA (now called the Parent Teachers and Students Association, or PTSA) has diminished in membership numbers by about 80 percent since statehood, and currently comprises less than 2 percent of the state's population (compared to 12 percent in 1959).¹⁴² The drop off in this form of parental involvement is disconcerting, particularly because the level of parental involvement has been increasing elsewhere.¹⁴³ Do parents of public school students in Hawaii care less about their children's education than do parents elsewhere, or less than did parents in Hawaii a generation or two ago? A former PTSA officer in Hawaii spurned those explanations; according to him, the real reason is that parents see little to gain by trying to get involved: "Parents of public school students are increasingly treating the DOE as a lost cause."¹⁴⁴ [*Need to update and footnote better.*]

Reasonable Expectations Regarding Student Achievement

Primary predictors of student achievement include family income, the presence of special needs, and limited English proficiency. Demographic information suggests that student achievement in Hawaii's public education should be relatively high (i.e., compared to public

[us/375993/](http://www.washingtonpost.com/news/local/wp/2015/06/08/public-versus-private-schools-who-goes-where-by-state/).

¹³⁶ This came from Kwak census report which isn't available now; I need to verify the conclusion and update it.

¹³⁷ Brown, "Public versus private schools: Who goes where, by state," The Washington Post, June 8, 2015, available at <https://www.washingtonpost.com/news/local/wp/2015/06/08/public-versus-private-schools-who-goes-where-by-state/>.]

¹³⁸ Kwak, *supra* note 50.*

¹³⁹ *Need to keep bugging the DOE for the data and answers to my many questions about homeschooling in Hawaii.

¹⁴⁰ Institute of Educational Sciences of the National Center for Educational Statistics, "Characteristics of the Largest 100 Public Elementary and Secondary School Districts in the United States 2008-09 (Nov. 2010). See also https://en.wikipedia.org/wiki/List_of_the_largest_school_districts_in_the_United_States_by_enrollment.

¹⁴¹ [*Need to update this*] See Dept. of Education, "2012 Superintendent's 23rd Annual Report," May 2013, available at http://arch.k12.hi.us/PDFs/state/superintendent_report/2012/2012SuptRptFinal20130514.pdf; see also University of Hawai'i Public Policy Center, "Report to the 2009 Legislature," Section III (January 2009).

¹⁴² *Need to update number and cite source; originally cited Sally Kwak's paper; need to research this more.*

¹⁴³ Digest of Education Statistics, Table 62 (Percentage of elementary and secondary school children whose parents were involved in school activities, by selected child, parent, and school characteristics: 1999, 2003, and 2007), available at http://nces.ed.gov/programs/digest/d11/tables/dt11_062.asp.

¹⁴⁴ Interview with former PSTA officer and former member of the Board of Education Paul Vierling.

school students in other states). Hawaii has a relatively low percentage of students from families below the poverty line (17.3 percent versus the national average of 20.7 percent in 2011).¹⁴⁵ The percentage of students eligible for free or reduced-price lunches is also lower in Hawaii (46.8) than is the national average (48.1). [2015 Superintendent’s Report: 7.8% of Hawaii Families are in Poverty using inflation-adjusted dollars; 91.7% of adults in state have achieved high school diploma or more; 31.0% have achieved a 4-year college degree or higher.]

Another predictor for student performance in an individual state is the percentage of students who require special-education services. As with poverty as a predictor, the available data having to do with special education suggest that overall student achievement in Hawaii should be above the national average. The percentage in Hawaii of children served under the Individuals with Disabilities Education Act as of 2011 is 11.0, which is significantly below the national average of 13.0 percent.¹⁴⁶ According to the 2015 Superintendent’s Report, 10% of the students are currently classified as Special Education (SPED), 7% as English Language learners (ELL), and 51% as economically disadvantaged.¹⁴⁷ NCES says ELL is 8.5% and there were 19,221 students or 10.3% with IEPs. <http://nces.ed.gov/programs/digest/d14/>.

Yet another predictor is the percentage of students who participate in programs for English Language Learners (ELL). The percentage in Hawaii is 8.5 percent of the total public-school enrollment, which is less than the national average of 9.3 percent.¹⁴⁸ The percentage is higher in twelve states. The percentage is dramatically higher than in Hawaii in California (22.7%), Nevada (15.5%), Texas (15.5%), New Mexico (15.3%), Colorado (12.2%), and Alaska (11.4%).¹⁴⁹ Interestingly, Hawaii was ninth on the list of states in which persons five and older speak a language other than English at home (26% in Hawaii) as of 2010.¹⁵⁰

The 2016 Quality Counts Report from *Education Week*¹⁵¹ ranks Hawaii slightly above average on its “chance for success index” (78.9 versus the national average of 77.8).¹⁵² That is, Hawaii’s demographics are such that one might reasonably expect our statewide student

¹⁴⁵ Laura Castner, Karen Cunyningham & Amang Sukasih, *Empirical Bayes Shrinkage Estimates of State Supplemental Nutrition Assistance Program Participation Rates in 2008- 2010 for All Eligible People and the Working Poor* 63, Feb. 2013, available at

<http://www.fns.usda.gov/ora/MENU/Published/snap/FILES/Participation/Techpartrate2008-2010.pdf>

¹⁴⁶ U.S. Dept. of Education, *Digest of Education Statistics* 87, June 2012, available at

<http://nces.ed.gov/pubs2012/2012001.pdf>.

¹⁴⁷ *Defined in 2015 Superintendent’s Report as “students whose families meet the income qualification for the federal free/reduced-cost lunch program.”

¹⁴⁸ National Center for Education Statistics (NCES) Table 204.20 Number and percentage of public school students participating in programs for English language learners, by state, available at http://nces.ed.gov/programs/digest/d15/tables/dt15_204.20.asp.

¹⁴⁹ Ibid.

¹⁵⁰ See Table 11 at <http://www.centerforpubliceducation.org/You-May-Also-Be-Interested-In-landing-page-level/Organizing-a-School-YMABI/The-United-States-of-education-The-changing-demographics-of-the-United-States-and-their-schools.html>.

¹⁵¹ Quality Counts 2016, Education Week, available at <http://www.edweek.org/ew/qc/2016/2016-state-report-cards-map.html?intc=EW-QC16-TOC>.

¹⁵² The highest five states are Massachusetts (94.6), New Jersey (91.0), Connecticut (90.7), New Hampshire (89.6), and Maryland (88.2). The lowest five are New Mexico (67.2), Nevada (67.3), Mississippi (68.1), Louisiana (68.5), and West Virginia (71.1).

performance scores to be at or slightly above the national average.¹⁵³ Yet Hawaii scored below average for student achievement (69.0 versus the national average of 71.0) and earned an overall grade of D+.¹⁵⁴ The authors of this study evidently don't think underperformance is due to the level of state spending: They gave Hawaii a C+ for the amount it spends of public education (79.1 versus the national average score of 63.9).

Some people think a community's ethnic makeup has a major impact on overall student performance. Others say it is relevant, if at all, only as a proxy for factors like poverty, limited English proficiency, and cultural influences. Interestingly, students in Hawaii tend to underperform their ethnic counterparts outside Hawaii. For example, student achievement for non-poverty Caucasians in Hawaii (i.e., those who do not qualify for the free-lunch program) score significantly below non-poverty Caucasians outside Hawaii. The same holds true for Hawaiians and for Asians.¹⁵⁵ [*Need to update this and maybe add a relatively simple comparison chart; e.g., Caucasians nationally averaged 268 in 2008 and 270 in 2012 on reading; math scores for Caucasians 17 year old were 314 in 2008 and 314 in 2012; what did Caucasian counterparts do in Hawaii in those years?*

The simple point for now is that objective indicators suggest that Hawaii's public school students have been underperforming that level at which they might reasonably be expected to perform (e.g., national averages).

Hawaiian Students in Hawaii's Public Schools

Several studies have expressed specific concerns on behalf of Hawaiian children¹⁵⁶ and have suggested that they would learn better in a culture-appropriate setting.¹⁵⁷ A study

¹⁵³ Demographic information considered in the scoring include percent of dependent children (under 18 years of age) who live in families that have income above 200 percent of the federal poverty level; those that have at least one parent who holds a two- or four-year postsecondary degree; those with at least one steadily employed parent; and those whose parents are fluent English speakers. Also, the percent of 3- and 4-year olds who are attending preschool and eligible children who are attending kindergarten. See <http://www.edweek.org/ew/articles/2016/01/07/quality-counts-sources-and-notes-2016.html>.

¹⁵⁴ Ibid.

¹⁵⁵ U.S. Department of Commerce, Census Bureau, Annual Estimates of the Population by Race Alone and Hispanic or Latino Origin for the United States and States: July 1, 2005 (SC-EST2005-04), released July 15, 2006, available at http://nces.ed.gov/pubs2007/minoritytrends/tables/table_1b.asp.

¹⁵⁶ As used in this essay, Hawaiians are those individuals who can trace an ancestor back to the arrival of Captain James Cook in 1778.

¹⁵⁷ See e.g., PASE, "Ka Huaka'i: 2005 Native Hawai'i an Educational Assessment," Pauahi Publications (2005) at http://www.ksbe.edu/imua/digital_archived_article/ka-huakai-native-hawaiian-educational-assessment-2005/ ("In general, our analysis indicates the need for continued efforts to enhance Native Hawai'i an education ... positive results, however, have begun to emerge in culture-based charter schools, immersion schools, and other innovative and enriching programs that infuse cultural significance and place-based relevance to the educational process for Native Hawai'i an children."); PASE, "Evaluation Hui Gains Momentum: Hawai'i's Research Community Discusses Indigenous Research and Evaluation Considerations," Dec. 2003 (recommendations include "Hawai'i an-focused research and evaluation should be conducted by Hawaiians and for Hawaiians" and "incorporate Hawai'i an cultural values and protocol"); Frankel, "Hawaiians and Part-Hawaiians Beset With Problems," The Honolulu Star-Bulletin, Jan. 31, 1963, reporting on a study with a blue-ribbon advisor board and funding from the Queen Liliuokalani Trust: "The intermarriage of Hawaiians with other racial groups is not producing the 'golden boy' of fiction writers but too often is producing a man tarnished by poverty and delinquency. Instead of being a carefree dweller in Paradise or an important cog in the industrial complex of the 50th State, the Hawai'i an and part-Hawai'i

published in 2003 and funded by Kamehameha Schools described Native Hawaiian children as having been “left behind in our state public school system.”¹⁵⁸ [*Need to update this entire section, perhaps in conjunction with a section on Hawaiian charter schools.*]

“This analysis shows that compared to other major ethnic groups, Hawaiian children have the lowest test scores and graduation rates, and are overrepresented in special education and subsidized lunch programs. Hawaiian students also have disproportionately higher rates of grade retention and absenteeism than do non-Hawaiian students. . . . Hawaiian children are too often deprived of opportunities for intellectual engagement, social growth, and other aspects of a quality education that help to pave the way to fulfilling futures.”¹⁵⁹

Currently, 28% of Hawaii’s public school students are Native Hawaiian, making them the largest ethnic group.¹⁶⁰ In no state are indigenous students the largest ethnic group in the public schools.¹⁶¹ Our DOE acknowledges that Native Hawaiian students experience large disparities in academic achievement and post-high school higher education enrollment compared to all DOE students.¹⁶² The DOE and the University of Hawaii have set institutional goals to address the disparities and to improve academic achievement.¹⁶³

Charter Schools

In 1994, in an attempt to address both general-public demand for more local control of the schools and Native Hawaiian demands for culturally sensitive educational opportunities for Hawaiian children, the Legislature and Governor Waihee authorized a limited number of “student-centered” schools. These are commonly known as charter schools.

Charter schools can be formed by existing public schools or by any community, group of teachers, or program within an existing school, and are described in legislative history as “a new approach to education that is free of bureaucratic red tape and accommodating of the individual

an is beset with troubles and woes. He is too often in trouble with the law, too often in trouble within his own family life, and too often too satisfied with a lowly job. He lacks motivation and the desire ‘to get ahead’ in the life of industrial America.”)(Members of the trust’s advisory board included “the Reverend Abraham K. Akaka, pastor of the Kawaihāo Church, the Very Reverend Monsignor Charles A. Kekumano, chancellor-secretary of the Roman Catholic diocese of Honolulu, George Ii Brown, philanthropist, capitalist and sportsman, Mrs. Edith KF. Keen, school social worker, George H. Mills, physician, I.B. Peterson, president of the musicians union, Abraham K. Piianaia, former executive director of the Hawai‘i Homes Commission, and businessman, William S. Richardson, Lieutenant governor of the State and attorney, and Mrs. Zena Schuman, civic leader and business woman.”); *see generally*, <http://www.ksbe.edu/communityeducation/>.

¹⁵⁸ “Shawn Malia Kanalaupuni and Koren Ishibashi, “Left Behind? The status of Hawai‘i an Students in Hawai‘i Public Schools,” PASE Report 02-03:13, page 4 (June 2003), last visited Aug. 10, 2009.

¹⁵⁹ *Id.*, cover page.

¹⁶⁰ State of Hawaii, *Race to the Top Application Assurances (CFDA No. 84.395A)* 43, May 2010, available at <http://www2.ed.gov/programs/racetothetop/phase2-applications/hawaii.pdf>.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

needs of students.”¹⁶⁴ Like other public schools, charter schools must accept all students, including those with special needs. The primary difference from regular public schools is that charter schools are allowed to operate somewhat independently of the DOE bureaucracy.¹⁶⁵ Each charter school is the direct responsibility of a board comprised of individuals who have a strong interest in improving student-achievement levels at that particular school.¹⁶⁶ Charter schools are generally free to purchase academic-support services from any source, but a glaring inequality is that the “start-up” charter schools (as opposed to regular DOE schools that convert to charters) have to find and pay for their own facilities.¹⁶⁷

In 2012-13, there were 286 regular DOE schools and of those, 32 were charter schools.¹⁶⁸ Most of the charter schools are in areas of the state that have exceptionally high numbers of Native Hawaiians, and the programs of instruction at many of these schools are grounded in the Hawaiian culture.¹⁶⁹ “[I]n 50% of the State’s charter schools, and 19% of HIDOE-managed schools, at least half the students are Native Hawaiian.”¹⁷⁰ Approximately 88% of the students in Hawaiian culture-based charter schools are Native Hawaiians or part-Hawaiians.¹⁷¹ Although one hears many stories about dramatic turnarounds in the attitude and performance of individual students, it is difficult to document such changes because the DOE does not provide baseline data for the years when those students were attending non-charter schools. It is relatively easy to find information about how students do once they are in a charter school, however, and most of it is encouraging. Kanu o ka Aina on the Big Island is one of the state’s oldest and best-run charter schools; its graduation rate is 98 percent and more than 70 percent of the graduates go to college. Such numbers would be impressive even if the student body were not made up almost exclusively of children who had been “left behind by our state public school system,” according to the study cited above.¹⁷² Unsurprisingly, the number and percentage of public-school students who are choosing to attend one of the 32 charter schools are on the rise. During School Year 2012-2013, 9,593 students were enrolled in charter schools, 5 percent greater than the previous year. The average enrollment per charter school has risen from 139 in 2001-02¹⁷³ to 299 in 2012-13,¹⁷⁴ and the waitlist has grown to more than 3,000.¹⁷⁵

¹⁶⁴ Act 62. See generally, “Why Charter Schools,” Hawai‘i Association of Charter Schools, available at <http://www.k12.hi.us/~bwoerner/hacs/whycharters.html>, last viewed 6/12/09; see also “Charter School Profiles,” available at <http://www.hcsao.org/hicharters/profiles>, last visited 6/12/09. Because of its autonomy from the system’s central administration (i.e., the DOE), a charter school theoretically is free to “create alternatives and choice within the public school system ... while providing a system of accountability for student achievement.” They also “encourage innovation and provide opportunities for parents to play powerful roles in shaping and supporting the education of their children.” Charter-school advocates view them as “healthy competition” for regular schools.

¹⁶⁵ Auditor’s Report No. 02-03, Feb. 2002.

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¹⁶⁸ State of Hawaii, Dept. of Education, *Superintendents Report 9*, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

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¹⁷⁰ State of Hawaii, *Race to the Top Application Assurances (CFDA No. 84.395A)* 104, May 2010, available at <http://www2.ed.gov/programs/racetothetop/phase2-applications/hawaii.pdf>.

¹⁷¹ State of Hawaii, *Race to the Top Application Assurances (CFDA No. 84.395A)* 185, May 2010, available at <http://www2.ed.gov/programs/racetothetop/phase2-applications/hawaii.pdf>.

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¹⁷³ Interview of Maunalei Love, Executive Director of the Charter School Administrative Office, Aug. 21, 2009.

¹⁷⁴ State of Hawaii, Dept. of Education, *Official Enrollment Count*, available at

Historically, charter school proponents complain that the Legislature and the DOE/BOE have done little to help the charter schools succeed.¹⁷⁶ Some, like former Congressman Ed Case, contend that the DOE/BOE tries to sabotage the charter schools, out of a desire to maintain total control over public education and a fear that the charter schools will out-shine the regular schools:

“Many in the Legislature and DOE/BOE unfortunately oppose charter schools because they fear their autonomy and view them as competing with, not complementing, other public schools. They would rather charter schools fail than prove that school-based flexibility and decisionmaking free of a state central board and administration really work.”¹⁷⁷

Case’s comments are not unique. The U.S. government’s chief advocate for charter schools once described Hawaii’s charter schools as “designed to fail.”¹⁷⁸ A former member of the BOE has said, “You need to understand that the DOE’s opposition to the charter schools is philosophic; they view charter schools as destroying the concept of public education as they know it.”¹⁷⁹

In 2012, the Hawaii State Legislature passed Act 130, which established the State Public Charter School Commission and required performance contracts with each charter school.¹⁸⁰ Its proponents viewed this as a formerly lacking system of oversight that will only make charter schools stronger. On July 1, 2013, “all 32 charter schools and the State Public Charter School Commission, [. . .] completed the execution of the first charter school performance contracts in the state’s history.”¹⁸¹

[http://lilinode.k12.hi.us/STATE/COMM/DOEPRESS.NSF/a1d7af052e94dd120a2561f7000a037c/00ebdabfac05a3dc0a257ab6006fe7e0/\\$FILE/OEC_1213_Nov.14.pdf](http://lilinode.k12.hi.us/STATE/COMM/DOEPRESS.NSF/a1d7af052e94dd120a2561f7000a037c/00ebdabfac05a3dc0a257ab6006fe7e0/$FILE/OEC_1213_Nov.14.pdf).

¹⁷⁵ Interview of Maunalei Love, Executive Director of the Charter School Administrative Office, Aug. 21, 2009.

¹⁷⁶ In 2009, for example, the Legislature included in the appropriations measure an extensive new requirement that each charter school must provide annual reports on its hiring practices, purchasing practices, etc., ostensibly to see if the charters schools are “following state regulations” that do not apply to the charters. And two members of the BOE repeatedly tried to include bills pertaining to charter schools a new requirement that they be subject to “BOE policies and DOE directives,” which, if enacted, would have marked the end of the charter schools. Because these BOE members managed to get such a provision included in the charter schools’ omnibus bill, the charter schools ended up asking that their own bill be rejected. BOE minutes actually reference explicit statements by board members to the effect that the charter schools must be stopped because they threaten the whole public education system.

¹⁷⁷ Interview with former Congressman Ed Case.

¹⁷⁸ See Drake Beil, “Lack of money, support killing charter schools,” *The Honolulu Advertiser*, Apr. 25, 2004; *see also*, Brown, “Hawai‘i Board of Education Stifles Charter School Growth,” available at <http://www.grassrootinstitute.org/system/old/GrassrootPerspective/BOEStifles.shtml>, last visited June 27, 2009.

¹⁷⁹ *Supra*, note 56; See also Kawamoto, “Charter schools shafted by DOE,” *The Honolulu Advertiser*, Aug. 3, 2003 and Hawai‘i Educational Policy Center: Charter Challenges: Policy Issues Facing Charter Schools in Hawai‘i, “Funding Charter Schools,” July 2004.

¹⁸⁰ Act 130, SLH 2012 http://www.capitol.hawaii.gov/session2012/bills/GM1232_.PDF

¹⁸¹ State of Hawaii, Dept. of Education, *Media Release – Performance Contracts Strengthen Charter School Accountability* (Jul. 3, 2013), available at <http://www.hawaii247.com/2013/07/03/performance-contracts-strengthen-charter-school-accountability/>.

The performance contract establishes expectations for the academic, financial, and organizational performance of charter schools in order to ensure good outcomes for students and responsible stewardship of public funds[. . .] Performance contracts are a critical component of a high-quality charter school system, and this one helps clarify the responsibilities of the schools and of the Commission itself.¹⁸²

Opponents of Act 130 viewed it as an attempt to take back autonomy and to make charter schools more like all the other schools in the system.

The legislature has yet to demonstrate aloha for charter schools when it comes to financial support. Although the DOE's all-inclusive annual expenditures penciled out to about \$12,399.00 per student in 2009,¹⁸³ the charter schools have received only about [I need to find this number] per student in each of the past three years. Charter school proponents generally consider this level of funding to be unfair and inadequate, especially for start-up charter schools that must provide their own facilities (and the DOE demands that the facilities satisfy stringent standards).

Home Schooling

[*Need to completely redo this section. First see exchange with DOE's contact person for homeschooling, Raymond Fujino, regarding absence of data, policies, guidelines, training, etc., on homeschooling.*] Approximately 1.97 million children were being home-schooled in the United States in 2012, and 7,856 of them were in Hawaii.¹⁸⁴ To homeschool a child in Hawaii, a parent must first notify the principal of the public school that the child would otherwise be required to attend.¹⁸⁵ The parent will be expected to have developed, and agree to maintain, a planned curriculum that is based on both conventional educational objectives and the needs of the child.¹⁸⁶ A written record of progress must demonstrate that the child is acquiring up-to-date knowledge and useful skills.¹⁸⁷ The record must sequential and cumulative, and include beginning and ending dates, instructional hours per week, subject areas, teaching methods, instructional materials, and performance reports.¹⁸⁸ Additionally, the child must

¹⁸² State of Hawaii, Dept. of Education, *Media Release – Performance Contracts Strengthen Charter School Accountability* (Jul. 3, 2013), available at <http://www.hawaii247.com/2013/07/03/performance-contracts-strengthen-charter-school-accountability/>.

¹⁸³ This all-inclusive figure is arrived at by dividing total budget by total enrollment. Total Expenditures (\$1,406,283,361.00)* / Projected enrollment (178,070) = The BOE/DOE contends that the number is meaningless, because it includes items processed by the Budget & Finance rather than DOE (e.g., fringe benefits) and the amount spent on facilities and the debt service necessitated by investment in facilities. This author believes the all-inclusive per-student number is particularly helpful in comparing the financial resources of public schools to typical private schools. According to the Hawaii Association of Independent Schools, most private schools in Hawaii rely on tuition revenue for the bulk of not just operating costs but also debt service. The all-inclusive number is also helpful in judging the fairness of funds provided to charter schools that have to provide their own facilities.

¹⁸⁴ A2Z Homes Cool, *How Many Homeschoolers in America?* (Sept. 1, 2013), http://a2zhomeschooling.com/concerns_homeschooling/numbers_homeschooled_students/

¹⁸⁵ Haw. Rev. Stat. § 302A-1132(a)(5) (2013)

¹⁸⁶ Haw. Admin. R. § 8-12-15 (2013).

¹⁸⁷ Haw. Admin. R. § 8-12-15 (2013).

¹⁸⁸ Haw. Admin. R. § 8-12-15 (2013).

participate in the Statewide Testing Program in grades three, five, eight, and ten,¹⁸⁹ and pass muster with the principal of the school that the parent notified its intent to homeschool.¹⁹⁰ In short, the parent must maintain a program of instruction at home that is roughly equivalent to what the child would be getting in a DOE school.

The Adults in the System

A 2012 study by the Thomas B. Fordham Institute, a conservative think tank, ranked the Hawaii State Teachers Association (HSTA) as the strongest teachers union in the country.¹⁹¹ Hawaii has some of the most permissive bargaining laws and union-favored education policies in the nation, and the state [teachers] union has more resources—and is more politically active—than nearly anywhere else.¹⁹²

The total money spent each year in operating Hawaii’s public schools is elusive and sometimes confusing. For example, the cost of fringe benefits is not always included in published totals, simply because those are administered by the Department of Budget and Finance rather than the DOE.¹⁹³ So although the DOE spent \$2.7 billion on operations for the 2015-16 school year (facilities are in addition to that), its own website, as of August 2016, stated that it “operates Hawaii’s public schools on a \$1.9 billion budget.” That number may be literally true, but gives the impression that the state is spending less on education each year than is actually the case.

According to the latest Superintendent’s Report, operating expenditures for the 2015-2016 school year totaled \$2.6 billion.¹⁹⁴ Internal DOE budget sheets put the number at \$2.8 billion.¹⁹⁵

¹⁸⁹ Haw. Admin. R. § 8-12-18(c) (2013).

¹⁹⁰ Haw. Admin. R. § 8-12-18(d) (2013).

¹⁹¹ Sarah Butrymowicz, “New Era of Labor: Hawaii’s Powerful Teachers Union’s Multi-Front War,” Time, June 8, 2013, available at <http://nation.time.com/2013/06/08/new-era-of-labor-hawaiis-powerful-teachers-unions-multi-front-war/#ixzz2ZKiaVOqI>. The study looked at Resources & Membership (3rd), Involvement in Politics (1st), Scope of Bargaining (9th), state Policies (9th), and Perceived Influence (23rd). The ranked states and each state’s profile are available at <https://edexcellence.net/publications/how-strong-are-us-teacher-unions.html> and <http://files.eric.ed.gov/fulltext/ED537563.pdf>.

¹⁹² Winkler, Scull & Zeehandelaar, How Strong are U.S. Teacher Unions? A State-By-State Comparison, Oct. 2012, available at <http://files.eric.ed.gov/fulltext/ED537563.pdf>.

¹⁹³ The DOE sometimes excludes the cost of fringe benefits because that function is handled by the State Department of Budget & Finance. While it is literally true that the DOE does not pay those costs, it makes no sense to imply that the cost of fringe benefits for DOE workers is not relevant, for example in calculating a per-student cost. It is worth noting that the 2015 Superintendent’s Report \$2.704 billion as the total for appropriated funds and \$2.586 billion for operating expenditures. The most recent data regarding part-time workers indicates that they comprise the equivalent of 10,000 full-time employees.

¹⁹⁴ See Table 15, p. 8, available at http://arch.k12.hi.us/PDFs/state/superintendent_report/2015/2015SuptRptFinal.pdf.

¹⁹⁵ This includes, for example, retirement benefits of \$274,546,000, health benefits of \$231,658,000, and debt service of \$284,657,000. See page 1860 of Operating and Capital Budget by Major Program Area and Intermediate Levels of the Program Structure, available at <http://randallroth.com/files/FY13-15%20Operating%20at%20Intermediate%20levels%20of%20program%20structure%20%28see%201860%29.pdf>.

The amount spent per student is an important number for a variety of reasons. One is to compare what the DOE spends per student to the per-student allocation given to the state's charter schools. Another is to compare local private school tuitions to what the DOE spends on average to educate a student. Yet another is to compare what we spend in Hawaii to what is being spent in comparable districts on the mainland. Such comparisons are not perfect. For example, private schools must take the cost of facilities into account in setting tuition, but they often received contributions which also must be considered. Some years ago a study estimated that the average tuition at one of Hawaii's 115 private schools was 15% less than it would have to be if the school received no contributions.¹⁹⁶

Calculating a per-student all-inclusive cost of public education can be difficult and controversial (i.e., any one set of assumptions can be subject to valid criticism). If one truly is after total costs, then the cost of facilities (Capital Improvement Projects, or CIP) or, better yet, a rolling average of CIP from the last few years, should be included. After all, private schools and start-up charter schools have to pay for their facilities and also must pay interest on any borrowed money. The current CIP is \$176 million, which is considerably lower than last year's \$324 million, according to the DOE Budget 2013-2015, page 9. When the average of those two numbers (\$250 million) is added to the \$2.64 billion mentioned above, the total is \$2.89 billion. If you divide that number by the number of public school students (181,213 in 2011-12, according to the latest Superintendent's Report), the resulting figure is \$15,948. I generally round the number upward or downward (i.e., to either \$15,900 or \$16,000), because citing an exact number like \$15,948 can cause an uninformed person to think that the number is a precise calculation or that the process of arriving at it is not controversial.]

It can be equally difficult to determine the number of people who work for the DOE or on behalf of the DOE. Officially, there are 21,244¹⁹⁷ full-time employees, but when you consider the full-time equivalent of part-time workers, the number is much higher. Once fulltime-equivalent employees are added to the official numbers, the total is higher than the number of employees at Hawaiian Electric Industries, Hawaii Medical Services Association, Alexander & Baldwin, Hawaiian Airlines, Kaiser Permanente Hawaii, First Hawaiian Bank, Bank of Hawaii, and the Queen's Health Systems, *combined*—make it by far the state's largest employer.¹⁹⁸

Unions are an imposing presence in Hawaii's public education system. According to a 2012 study, Hawaii has the strongest teachers union in the nation.¹⁹⁹ Among the employees of

Latest numbers at <https://budget.hawaii.gov/wp-content/uploads/2012/12/29.-The-Operating-Capital-Budget-by-Major-Program-Area-Intermediate-Levels-of-the-Program-Structure-FB15-17-PFP.pdf>.

¹⁹⁶ *cite Cooper & Ouchi Study. Maybe quote from it.

¹⁹⁷ State of Hawaii, Dept. of Education, *Superintendents 23rd Annual Report* 9, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

¹⁹⁸ Kubota, "State moves up in per-student spending," *The Honolulu Star-Bulletin*, July 28, 2009; see also William Ouchi and Bruce Cooper, "Financial Analysis of Hawai'i Public Schools," Nov. 23, 2003, regarding the number of DOE employees.

¹⁹⁹ Amber M. Winkler, Janie Scull & Dara Zeehandelaar, *How Strong Are U.S. Teacher Unions? A State-By-State Comparison* (Oct. 29, 2012), available at <http://www.edexcellence.net/publications/how-strong-are-us-teacher-unions.html>.

the DOE are about 11,241²⁰⁰²⁰¹ classroom teachers, each of whom must pay dues to the Hawaii State Teachers Association (HSTA); according to the DOE, 10,852 of them are fully licensed teachers²⁰² and the rest provide support services.²⁰³ There also are 254 principals and a slightly larger number of vice-principals in the 254 regular (non-charter) schools. All of the DOE's principals, vice-principals, outside-the-schools administrators (other than the superintendents), and most of the DOE's non-certified staff belong to the Hawaii Government Employees Association (HGEA).

These two unions—HSTA and HGEA—won the right to bargain collectively for their respective members shortly after the 1968 Hawaii State Constitutional Convention voted to make collective bargaining by government workers a constitutional right.²⁰⁴ A unionized teaching corps is now common in public education systems, and a handful of individual school districts allow principals to bargain collectively for compensation and benefits, but Hawaii is the only state that has fully unionized management (i.e., principals and other administrators) with near-absolute job security.²⁰⁵

HSTA and HGEA officials describe themselves as tough negotiators and proactive players in the political arena.²⁰⁶ The HGEA staged a 12-day strike in 1994; the HSTA engaged in an 18-day strike in 1973 and a 21-day strike in 2001. The first HSTA strike pitted the union against a political ally, Governor John A. Burns. According to the HSTA's own website, "once [the teachers] had a taste of the power of collective action, not even the Governor had the power to put the genie back in the bottle."²⁰⁷

Even staunch union supporters sometimes express concerns about the implications of having both unionized labor *and* unionize management.²⁰⁸ Some are particularly concerned that the system's managers are in the same union as many of the workers—HGEA.²⁰⁹ In a 2009 conversation about the role of unions in public education, former Governor Benjamin Cayetano observed, "Not everything the unions want is in the best interests of the kids."²¹⁰

²⁰⁰ State of Hawaii, Dept. of Education, *Superintendents Report 17*, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

²⁰¹ Called HSTA(808) 833-2711 1:40 pm July 31, 2013. Left message.*

²⁰² State of Hawaii, Dept. of Education, *Superintendents Report 17*, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

²⁰³ University of Hawai'i Public Policy Center, "Report to the 2009 Legislature," Section III (January 2009).

²⁰⁴ Needs cite*

²⁰⁵ See, "School principals bill gets derailed," Honolulu Star-Bulletin, February 8, 2003; "Local control needed to improve schools," Honolulu Star-Bulletin, July 24, 2003. When Governor Lingle introduced a bill to remove principals from the union in 2003, opponents in the Legislature contended that the bill was unconstitutional, a position the Honolulu Star-Bulletin called "ridiculous and absurd," in an editorial.

²⁰⁶ See, e.g., HSTA.org, "About HSTA," available at <http://www.hsta.org/about-history01.php>; last visited June 27, 2009, and HGEA.org, "History of HGEA," available at <http://www.hgea.org/AboutUs/History.aspx>; last visited June 24, 2009.

²⁰⁷ *Id.*

²⁰⁸ Need cite*

²⁰⁹ Need cite*

²¹⁰ Interview of Governor Benjamin Cayetano by Randall Roth, August 14, 2009.

The HSTA and the state were firmly lectured by the Hawaii Labor Relations Board before the teacher's union went on strike in 2001: "Both sides act somewhat as though they have our schools hostage and are prepared to begin sacrificing hostages unless they achieve their objectives," the board wrote just before the teachers walked out. The Board later added this: "It comes as no particular surprise that even after ostensibly reaching an agreement which concluded a regrettable 21-day statewide teachers strike, the parties are without an executed collective bargaining agreement and once again making accusations of bad-faith bargaining."²¹¹

Allocating funds among the schools

For many years, the processes by which the DOE/BOE allocated non-restricted funds among the individual schools were unclear. This led to uncertainty and distrust. Some principals assumed that a "boat rocker" would pay a price in the form of lower budget allocations: "One principal confided that 'no principal in Hawaii would ever talk stink about the DOE, at least not publicly, because the DOE could make that principal's life miserable and his job impossible if he were ever perceived to be something other than 'a team player.'"²¹²

"Weighted student formula" (WSF), enacted in 2004, makes nearly half of the allocation process transparent and objective, and shifts theoretical control that portion of each school's operating budget from the DOE to the principal. The level of funding under WSF reflects each child's circumstances, and follows each child to whatever school that child attends, "instead of [following] the bureaucracy."²¹³

"[S]chools with high-poverty students, learners for whom English is a second language, rural or isolated populations or high teacher or student turnover ... receive more money per pupil. Special education students ... also get much more money than average."²¹⁴

The WSF concept was developed by Michael Strembitsky, Superintendent of Schools in Edmonton, Canada, and analyzed by UCLA professor William Ouchi in a book, "Making Schools Work: A Revolutionary Plan to Get Your Children the Education They Need."²¹⁵ In Edmonton, schools are allocated approximately 80 percent of the school district's total budget.²¹⁶ Each principal controls the school's operating funds and is not required to purchase services from central administration.²¹⁷

²¹¹ Richard Borreca, "HSTA turns a negotiation into a long, painful opera," Star-Advertiser, Jul. 31, 2011, at http://www.staradvertiser.com/editorials/20110731_HSTA_turns_a_negotiation_into_a_long_painful_opera.html.

²¹² Roth, "The Promise of the Reinventing Education Act of 2004," presented to Social Science Association, December 7, 2004; this essay also notes that John Dolly, former Dean of the University of Hawai'i College of Education, has described Hawai'i's public education system as "closed," and added that a person had to be viewed as a "team player" within the DOE in order to advance.

²¹³ Hiller, "Bill gives principals more control over spending," The Honolulu Advertiser, at A1, Apr. 10, 2003, at A1.

²¹⁴ Id.

²¹⁵ William Ouchi, "Making Schools Work: A Revolutionary Plan to Get Your Children the Education They Need," Simon & Schuster (2003); *See also*, Ouchi and Goldschmidt, "A National Study of School District Centralization and Student Performance," funded by the National Science Foundation.

²¹⁶ Edmonton Public Schools, *Budget Services – Allocation* (Accessed 11:13 a.m., Aug. 1, 2013), <http://www.epsb.ca/budget/allocating.shtml>.

²¹⁷ Id.

Although on paper WSF has shifted control over nearly half of each Hawaii public school's budget to the principal,²¹⁸ almost all of that amount, as a practical matter, must be devoted to essential personnel costs. According to Strembitsky, half of the total budget is barely enough simply to staff the school—control over the rest of the money is what *really* matters, and that half is still controlled outside the schools despite the adoption of WSF.²¹⁹ Even the half that a principal in Hawaii theoretically controls is subject to significant limitations. For example, personnel costs are based on statewide averages rather than actual costs, and this has major consequences to individual schools.²²⁰

Because less experienced (and therefore lower salaried) teachers are more typically found in higher disadvantage schools, the use of average salaries tends to charge these schools an amount that is higher than their teachers' earnings, while lower disadvantage schools (with a higher incidence of more experienced, higher salaried teachers) will be charged an amount that is lower than that paid out by the district to its teachers.²²¹

In contrast, the use of actual salaries would reflect the reality of exactly what is being paid,²²² so that schools with less experienced teachers would benefit from lower teacher-related costs (i.e., the additional money could be redirected toward other budget items).²²³ Teacher unions invariably oppose the use of actual salaries because of their "concern that principals might discriminate against more 'expensive' veteran teachers."²²⁴

Strembitsky and Ouchi contend that WSF can change the culture of a school system from "system-centered" to "school-centered" or "student-centered," only when principals truly control 90 percent or more of their respective school's operating budget and are not forced to do business with a monopolistic provider of administrative services like the DOE.²²⁵ They believe that managers within a monopoly tend over time to take their "customers" for granted.²²⁶ Hawaii's Business Roundtable has expressed similar thoughts:

²¹⁸ See, H. Mitchell D'Olier, "K-12 Public Education Redesign—Hawai'i an Style," presented to the Social Science Association Nov. 3, 2003, at 7. Available at <http://www.castlefoundation.org/pdf/Social-Science-Association.pdf>, (last visited June 11, 2009); cite the Auditor's Report for the 4% figure. The exact amount controlled by the principals is 47%; Cite 2009 Report to the Legislature. In 2003 the Superintendent stated in a public forum that principals controlled about 15% of the school budget. An earlier report from the state auditor indicated that it was about 4%. When Waimea Middle School on the Big Island converted to a charter school, the portion of the budget controlled by its principal reportedly increased from 5% to 97%.

²¹⁹ Needs cite*

²²⁰ Thus, for example, a principal cannot save money by assembling a relatively young, low-paid faculty. Each teachers costs exactly the same so far as the principal is concerned.

²²¹ American Institute for Research, *Evaluation of Hawaii's Weighted Student Formula: Key Considerations 2-3*, (June 2013).

²²² American Institute for Research, *Evaluation of Hawaii's Weighted Student Formula: Key Considerations 3*, (June 2013).

²²³ Id.

²²⁴ American Institute for Research, *Evaluation of Hawaii's Weighted Student Formula: Key Considerations 3*, (June 2013).

²²⁵ Needs cite*

²²⁶ Needs cite*

“Today, in many ways, the principals work for the system. As long as that culture persists, principals will never be empowered. . . . A cultural shift will occur [only when] schools control the budget for central office services, and the central staff operates on a cost-recovery basis by selling demand-driven services to the schools.”²²⁷

Is the System Working for the Students?

The key question here is whether Hawaii’s public school system is working well for its students. Although people debate the reasons, there is a widespread perception that the level of student achievement in Hawaii’s public schools is much lower than it should be. Here’s how one commentator expressed it a few years ago:

“The answer to how well the public schools are doing can be found on your car radio. If local morning radio types win a laugh by saying, "Don't feel bad, you must be a public school grad," you already know how the public perceives the job done by Hawaii's Department of Education.”²²⁸

The widespread perception that Hawaii’s students are not thriving is not new. The following quote is from a 1988 study that was funded by Hawaii’s Business Roundtable (called the Berman Report): “Officials feel frustrated that the general populace seems to view Hawaii public education as substandard. Most people do indeed perceive the system as performing below the level of education on the mainland.”²²⁹

This perception undoubtedly stems from comparatively low scores on national standardized exams. For example, a 2009 review of all the available data concluded, “Students in Hawaii have consistently underperformed on national tests of Math, Reading, Writing, and Science and continue to do so.”²³⁰

The National Center for Education Statistics trend reports show that Hawaii students have consistently scored below the national average in reading, writing, mathematics and statistics in assessments given in grades 4 and 8, from 1992 through 2011. There are signs of some recent improvement: In 2013, a national study indicated that the average scores on national exams placed Hawaii 40th in 4th grade reading and 44th in 8th grade reading among the 50 states, 26th in 4th grade math and 38th in 8th grade math.²³¹ The same study gave Hawaii an overall ranking of 29th in the United States.²³²

National Assessment of Educational Progress (NAEP) is consistent from state to state and therefore provides an objective comparison of student achievement in each of the 50 states.

²²⁷ “Redesigning Hawai‘i Public Education,” Hawai‘i Business Roundtable Position Paper, Mar. 2, 2004.

²²⁸ Borreca, “Politicians keep talking, students keep waiting,” The Honolulu Star-Bulletin, Nov. 30, 2003.

²²⁹ BW Associates, “Educational Excellence for the Pacific Era,” (Berman Report) p. 6, November 15, 1988.

²³⁰ Sally Kwak, *Determinants of Student Achievement in Hawaii*, Unpublished manuscript, prepared for the 50th Anniversary of Hawaii Statehood Conference, Honolulu, Hawaii, Aug. 21, 2009; see also University of Hawai‘i Public Policy Center, Report to the 2009 Legislature, § Section II (Jan. 2009).

²³¹ Education Week, *Quality Counts 2013, Hawaii State Highlights* (2013).

²³² Education Week, *Quality Counts 2013, State Report Cards* (2013).

Hawaii's NAEP scores have been in the bottom tier of all the states for many years. In 2011, Hawaii ranked 34th in fourth grade math, 44th in fourth grade reading and science, 44th in eighth grade math, 46th in eighth grade reading, and 48th in eighth grade science.²³³ Results from the nationally administered Scholastic Achievement Test (SAT) also have placed Hawaii at or near the bottom year after year.²³⁴

Comparisons of median SAT scores from state to state can be misleading because the percentage of public school students taking the SAT varies considerably—the higher the participation rate, the lower that state's median test score tends to be—but Hawaii's participation rate is greater than the national average, so its close to last-in-the-nation standing in SAT test scores cannot easily be discounted. Furthermore, the combined average SAT scores for public school students in Hawaii is far below that of other students in Hawaii.²³⁵

The public has at times had reasons to be confused by media reports that students from Hawaii were doing, or not doing, relatively well on the ACT college entrance exam.²³⁶ Test takers from Hawaii in past years have scored well above average on the ACT. How can a state simultaneously do well on the ACT and poorly on the SAT? The company that administers the ACT reports only composite data—that is, it does not report the scores of public and private school students separately.²³⁷ Second, public school juniors in Hawaii were not required to take the ACT until 2013, so relatively few did so in earlier years.²³⁸ Beginning in 2013, a relatively high percentage of public school students took that exam (a 75% increase in the total number of ACT test takers from Hawaii since the preceding year). The DOE reported that Hawaii “posted lower scores than their national peers” on all four of the benchmark areas (English, Mathematics, Reading, and Science), but Deputy Superintendent Ronn Nozoe saw a silver lining: “The good

²³³ National Center for Education Statistics, NAEP State Comparisons, *available at* <http://nces.ed.gov/nationsreportcard/statecomparisons/>.

²³⁴ Digest of Education Statistics, National Center for Education Statistics, Table 174, “SAT score averages of college-bound seniors and percent of graduates taking the SAT, by state or jurisdiction: selected years, 1996-96 through 2011-12.” The ACT is not helpful in evaluating the performance of public school systems because state averages reflect the scores of private-school students as well as public-school students.

²³⁵ In 2008, the combined average SAT scores for public schools (1,371), was far below both private secular schools (1,623) and private religious schools (1,579). *See* Collegeboard, 2012 College-Bound Seniors State Profile Report – Hawaii. Table 7, *available at* http://media.collegeboard.com/digitalServices/pdf/research/HI_12_03_03_01.pdf.

²³⁶ *See, e.g.*, Moreno, “Isles a bit above ACT average,” Honolulu Advertiser, August 19, 2009 (“While Hawai'i's ACT scores for the graduating class of 2009 showed small decreases from last year, overall the state's results show that Hawai'i's college-bound students are more prepared for post-secondary degree work than many of their national counterparts.”)

²³⁷ For a breakdown of SAT scores by public, independent, and parochial schools in Hawaii, see “Hawaii SAT scores remain steady,” Honolulu Advertiser, Aug. 26, 2009 (“When the scores are broken down, Hawai'i's public school students again fared significantly lower than their private school counterparts on the college entrance exam...Hawai'i's public school students averaged 474 in math, 454 in reading and 441 in writing...Hawai'i's private school students averaged 574 in math, 537 in reading and 535 in writing. Religious school students averaged 539 in math, 516 in reading and 514 in writing.”); also see generally Gima, “SAT scores show mixed results as more isle students take exam,” Honolulu Star-Bulletin, Aug. 26, 2009.

²³⁸ State of Hawaii, Dept. of Education, *Public schools gear up for college-and-career assessments*, April 2013, *available at* <http://www.hawaiiidoereform.org/enews/2013-04/Public-schools-gear-up-for-college-and-career-assessments>.

news is the high number of students challenging themselves with the college rigor of the ACT text.”²³⁹

Another indicator of student achievement is a school system’s graduation rate. For many years the DOE/BOE reported a system-wide graduation rate of about 80% (79.3% in 2009-10; 80.1% in 2010-11; 82.2% in 2011-12).²⁴⁰ However, national organizations such as the Education Commission of the States (ECS) and Education Research Center disagree, reporting rates for Hawaii that are significantly lower than was reported locally: 67.2% for 2010 and 69.2% for 2009, compared to the national average was 74.7%.²⁴¹ An analysis of the latest U.S. Department of Education data also suggests that the DOE/BOE’s numbers are somewhat suspect. These data indicate a 2009-10 “Freshman Graduation Rate” of 75.4 percent in Hawaii compared to the national average of 78.2 percent,²⁴² and a “Dropout Rate” in Hawaii of 5.7 versus the national average of 38%.²⁴³

The National Center for Public Policy and Higher Education once tracked the number of middle school students in each state who made it to various stages of the “educational pipeline.”²⁴⁴ In Hawaii, only 65 out of 100 ninth graders graduated from high school four years later (versus the national average of 68); 34 of those graduates immediately enter college (versus the national average of 40); 22 of those students are still enrolled a year later (versus the national average of 27); and 12 of those students receive a degree within 150% of the normal time it takes to get that degree (versus the national average of 18). Overall, Hawaii was near the bottom, 48th out of the 50 states.²⁴⁵

Placement exams taken by high school graduates wanting to take college-level courses can also be used to measure proficiency levels. In 2013, the University of Hawaii administered such exams to more than 3,000 students who self-reported that they had graduated from one of Hawaii’s public schools earlier in the year and were enrolling in one of the seven UH community colleges. The percentage of these students who were found to be ready for college transfer-level work (i.e., courses numbered 100 or above) were 50% in reading, 38% in writing, and 21% in math—meaning, for example, that 79% of these graduates needed remediation in math, 62% needed it in writing, and half required remediation in writing.²⁴⁶ The DOE’s Strategic Plan

²³⁹ “ACT results reinforce need for college- and career-readiness focus,” Aug. 21, 2013, available at <http://www.hawaiipublicschools.org/ConnectWithUs/MediaRoom/PressReleases/Pages/ACT-Results-Reinforce-Need-for-College-and-Career-Readiness-Focus.aspx>.

²⁴⁰ Superintendent’s 23rd Annual Report, p. 8, (May 2013), available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>.

²⁴¹ Education Week, *State Graduation Report 2013*, available at <http://www.edweek.org/apps/gmap/details.html?year=2013&zoom=6&type=1&id=HI>.

²⁴² U.S. Dept. of Education, Ed Data Express, State Data Table, available at <http://www.eddataexpress.ed.gov/state-tables-main.cfm>.

²⁴³ Digest of Education Statistics, National Center for Education Statistics, Table 8, Public high school number of graduates, number of high school dropouts for grades 9–12, and high school event dropout rate for grades 9–12, by gender and state or jurisdiction: School year 2009–10, available at http://nces.ed.gov/pubspubs2013/2013309/tables/table_08.asp.

²⁴⁴ “The National Center for Public Policy and Higher Education, “The Educational Pipeline: Big Investment, Big Returns,” Policy Alert, Apr. 2004.

²⁴⁵ See <http://www.highereducation.org/reports/pipeline/HI/Hi-b.pdf> for comparisons at each stage of the pipeline.

²⁴⁶ UHCC Office of Academic Planning, Assessment, and Policy Analysis, as reported in an email from Cheryl

envisions that its graduates are career ready and “possess the attitudes, knowledge and skills necessary to contribute positively and compete in a global society.”²⁴⁷

Some people may assume that a high school graduate always has the option of joining the military. Unfortunately, that simply isn’t the case for a large number of Hawaii’s graduates. Between 2004 and 2009, 38.3% of the young people from Hawaii who took the Armed Services Vocational Aptitude Battery (ASVAB) entrance exam did not meet the minimum necessary to enlist in the U.S. Army, which has a lower minimum than do the other branches (i.e., Marines, Air Force, Navy, and Coast Guard).²⁴⁸ Hawaii’s pass rate was the lowest in the nation. Except for Mississippi (37.8), the rest of the bottom 10 states—District of Columbia (32.5), Louisiana (30.9), South Carolina (29.5), Alabama (28.2), New Mexico (28.2), Arkansas (27.7), Maryland (26.6), and Tennessee (25.1)—did significantly better than Hawaii (38.3).²⁴⁹

Historically, various studies have found Hawaii’s standards, curriculum, and assessments wanting. The Fordham Foundation sharply criticized the DOE/BOE because Hawaii’s “standards are not measurable and there is no statewide curriculum.”²⁵⁰ And a federal panel of experts concluded that the DOE lacked “coherency” in academic content and achievement standards, and in its assessment system.²⁵¹ Critics in Hawaii have said that this fundamental incoherence takes its toll on both teachers and students.

“How can we realistically expect better student outcomes when our standards are, as the federal panel found, “incoherent”? ... Since the year 2000, our DOE has changed both the standards and the tests used to judge student performance based on those standards every single year. That’s like trying to change every tire and continually repaint the SUV as it rolls down the highway! That’s counterproductive, and it’s terribly unfair to teachers and students.”²⁵²

Since then, there have made additional changes. In fact, Hawaii is now one of the overwhelming majority of states that have adopted national Common Core State Standards (CCSS) in the subject areas of mathematics and English language arts. The standards “focus on core conceptual understandings and procedures starting in the early grades . . .”²⁵³ Proponents

Chappell-Long to Melissa Kolonie, dated Nov. 19, 2013.

²⁴⁷ State of Hawaii, Dept. of Education, *Strategic Plan 2011-2018 – 2012 Update*, Glossary, available at <http://www.hawaiipublicschools.org/DOE%20Forms/Advancing%20Education/StrategicPlan.pdf>

²⁴⁸ See “38.3% in isles fail military tests, Honolulu Star-Advertiser, Dec. 22, 2010. The available data do not indicate what percentage of the test takers attended public vs. private school, nor is it possible to say what percentage received a substantial portion of their formal education someplace other than Hawaii.

²⁴⁹ Non-whites, African-Americans, and Hispanics who took the exam in Hawaii (39.9) performed worse collectively than did their counterparts in other states (21.5); and Caucasians who took the exam in Hawaii (20.1) performed worse than did their counterparts in other states (16.4).

²⁵⁰ WestEd Study; see also Stuart, “Audit Exposes many Problems With Hawai‘i Public School System,” Hawai‘i Reporter, Feb. 17, 2004 (“The Department of Education has utterly refused to establish an academic curriculum [thereby delegating] this task down for each school to address ad hoc.”)

²⁵¹ Nina Buchanan and Mary Anne Raywid, “What is really needed to fight isle’s dismal test scores,” The Honolulu Star-Bulletin, Aug. 6, 2006.

²⁵² Cite Mary Ann’s article.*

²⁵³ Common Core Standards Initiative, *The Standards*, <http://www.corestandards.org/the-standards> (last visited Aug.

point out that states adopting these standards have the possibility of working with other states to develop common assessments and instructional resources and that better assessment systems and instruction are likely to result.²⁵⁴ Opponents argue that CCSS represents an attempt by the federal government to take over control of education from states and local government, and that the ultimate goal is a one-size-fits-all national education system that would stifle innovation and further strengthen the grip of teacher unions.²⁵⁵ The Hawaii DOE began its implementation of the CCSS in school year 2012-2013 with grades K-2 and 11-12.²⁵⁶ Full implementation is scheduled at all grade levels in school year 2013-2014.²⁵⁷

There are many other changes going on at Hawaii's DOE. From 2002 to 2012, the federal No Child Left Behind Act (NCLB) law required the DOE to measure school performance based mostly on reading and math test scores.²⁵⁸ In May 2013, the U.S. Department of Education (USDOE) granted the DOE a waiver from NCLB, and approved the new Strive HI Performance System, in this latest attempt "to ensure all students graduate college- and career-ready."²⁵⁹ Strive HI "replaces many of the requirements of the . . . NCLB with multiple measures of success to meet the needs of Hawaii's students, educators and schools."²⁶⁰ The Strive HI Performance Index aligns to the BOE/DOE State Strategic Plan's 2012 vision of success.²⁶¹

"Each school [will be] held accountable to meeting ambitious and attainable goals that are customized to each school complex [. . .], based on current performance," and "measures school performance and progress, using multiple measures of student achievement, growth and readiness for success after high school."²⁶²

8, 2013, 12:30 P.M.)

²⁵⁴ NEA Education Policy and Practice Department, *Common Core State Standards: A Tool for Improving Education*, 4 (2010), available at http://www.nea.org/assets/docs/HE/PB30_CommonCoreStandards10.pdf.

²⁵⁵ Mike McShane, *Common Core Complications*, U.S. News, July 3, 2013, available at <http://www.usnews.com/opinion/blogs/economic-intelligence/2013/07/03/five-complications-of-common-core-education-standards>.

²⁵⁶ State of Haw., Dept. of Education, *Hawaii Content & Performance Standards*, <http://standardstoolkit.k12.hi.us/common-core/> (last visited Aug. 8, 2013, 12:48 P.M.)

²⁵⁷ State of Haw., Dept. of Education, *Hawaii Content & Performance Standards*, <http://standardstoolkit.k12.hi.us/common-core/> (last visited Aug. 8, 2013, 12:48 P.M.)

²⁵⁸ Star Advertiser, *Hawaii gets approval for education law waiver*, May 20, 2013, available at http://www.staradvertiser.com/news/breaking/20130520_Hawaii_gets_approval_for_education_law_waiver.html?id=208162881

²⁵⁹ State of Haw., Dept. of Education, *News Release - U.S. DOE approves Hawaii's new school accountability and improvement system Strive HI Performance System replaces components of federal NCLB requirements*, May 20, 2013, available at <https://lilinode.k12.hi.us/STATE/COMM/DOEPRESS.NSF/a1d7af052e94dd120a2561f7000a037c/192d7e36a3fd5bbe0a257b71005dc69c?OpenDocument>

²⁶⁰ State of Haw., Dept. of Education, *News Release - U.S. DOE approves Hawaii's new school accountability and improvement system Strive HI Performance System replaces components of federal NCLB requirements*, May 20, 2013, available at <https://lilinode.k12.hi.us/STATE/COMM/DOEPRESS.NSF/a1d7af052e94dd120a2561f7000a037c/192d7e36a3fd5bbe0a257b71005dc69c?OpenDocument>

²⁶¹ State of Haw., Dept. of Education, *News Release - Strive HI System Replaces Parts of NCLB* (May 20, 2013), available at <http://www.hawaiipublicschools.org/ConnectWithUs/MediaRoom/PressReleases/Pages/Strive-HI-Performance-System-replaces-components-of-federal-NCLB-requirements.aspx>

²⁶² State of Haw., Dept. of Education, *News Release - Strive HI System Replaces Parts of NCLB* (May 20, 2013), available at <http://www.hawaiipublicschools.org/ConnectWithUs/MediaRoom/PressReleases/Pages/Strive-HI->

“We are proud of the work happening at every level of Hawaii’s public education system to prepare students for real-world demands and provide better data, tools and support to students, educators and schools. Now, with the approval of the Strive HI Performance System, we’ve unlocked the potential of all these efforts to work together in a coherent way to support success.”²⁶³

“Approval to move forward with the Strive HI Performance System validates our strategic direction and allows us to build on Hawaii’s successes. With the new system, we are more focused on college- and career-readiness, rewarding high-performing schools and customizing support to students, educators and schools with strategies proven in the Zones of School Innovation.”²⁶⁴

All the above change leaves in place a bureaucratic hierarchy that many people do not think is the best approach to public education. Teachers complain that constant change and growing reliance on bureaucratic processes consume inordinate amounts of their time that they would rather spend teaching.²⁶⁵ The Washington Post ran a story in August of 2013 about Hawaii’s “perpetual teacher shortage.”²⁶⁶ According to it, “constant educational experimentation” has frustrated many new teachers beyond their tolerance levels. Outside experts and commentators have described a teaching force that is far from satisfied with the degree of support provided by the DOE/BOE:

“Many principals and teachers work in an environment where they do not feel responsible for taking initiative and, in too many cases, wish to work elsewhere.”²⁶⁷

“The belief that schools will not improve without providing more authority at the local level is obvious to educators faced with the tedium of bureaucratic mandates.”²⁶⁸

Performance-System-replaces-components-of-federal-NCLB-requirements.aspx

²⁶³ Kathryn Matayoshi, Superintendent, DOE. State of Haw., Dept. of Education, News Release - *Strive HI System Replaces Parts of NCLB* (May 20, 2013), available at

<http://www.hawaiipublicschools.org/ConnectWithUs/MediaRoom/PressReleases/Pages/Strive-HI-Performance-System-replaces-components-of-federal-NCLB-requirements.aspx>

²⁶⁴ Ronn Nozoe, Deputy Superintendent, DOE. State of Haw., Dept. of Education, News Release - *Strive HI System Replaces Parts of NCLB* (May 20, 2013), available at

<http://www.hawaiipublicschools.org/ConnectWithUs/MediaRoom/PressReleases/Pages/Strive-HI-Performance-System-replaces-components-of-federal-NCLB-requirements.aspx>

²⁶⁵ CARE community sessions (materials available from the author); see also DeRego, Island Voices, The Honolulu Advertiser, p. A16, 10/17/03 (“The belief that schools will not improve without providing more authority at the local level is not only valid, but obvious to educators faced with the tedium of bureaucratic mandates.”).

²⁶⁶ “Hawaii schools fill teacher shortage with recruits from mainland but struggle to keep them,” The Washington Post, Aug. 10, 2013, at http://articles.washingtonpost.com/2013-08-10/national/41252874_1_hawaii-schools-veteran-teachers-teacher-retention.

²⁶⁷ BW Associates, “Educational Excellence for the Pacific Era,” (Berman Report) p. 19, November 15, 1988.

²⁶⁸ DeRego, Island Voices, Honolulu Advertiser, Oct. 17, 2003, at A16.

“I am a retired teacher and survived 35 years in the classroom, and I am now exhausted. The teaching environment is not conducive to good health. The DOE will not support you to make it any easier.”²⁶⁹

Principals also complain of unnecessary levels of bureaucracy, and severe limitations on a principal’s ability to remove ineffective teachers from the classroom on those relatively rare occasions when it is clearly warranted.²⁷⁰ It can literally take years of time-consuming effort to terminate a teacher, even if the need to do so is obvious not just to the principal but to everyone else in that school. Even when a principal has finally managed to remove such a teacher, the result in most cases is that the DOE simply assigns that teacher to another school. A former Executive Director of the teachers union, after 13 years as union head, stated proudly, “No teacher lost her job on my watch.”²⁷¹ A life-long educator responded, “If this doesn’t convince you that the HSTA protects its own, rather than students, nothing will.”²⁷²

And who should be better able to evaluate the public school system than the people working within it? When it comes to their own children, public school teachers and board members are voting with their feet. U.S. Census data from 1990 states that about 43% of the public school teachers in Honolulu at that time were sending their own children to private schools, compared to only 31% of the general Honolulu population.²⁷³ But this is not unique to Hawaii; “urban public school teachers send their children to private schools at a rate of 21.5 percent, nearly double the national rate of private-school attendance.”²⁷⁴ A 2003 KITV newscast reported, “Board of Education members send their kids to private schools at about three times the rate of other parents in the state.”²⁷⁵

Hawaii’s reputation for substandard public school education has widespread repercussions. “Business and military leaders say the reputation of Hawaii’s public schools makes it difficult for them to attract top personnel to the islands.”²⁷⁶

²⁶⁹ Comment from “tired,” on Honolulu Star-Bulletin discussion board, Aug. 20, 2009, available at <http://www.topix.net/forum/source/honolulu-star-bulletin/TCJI7DAAM0DPBVNG2/p3>.

²⁷⁰ CARE feedback from community sessions; *see generally*, Jacques Steinberg, “In Hawai‘i, Public Schools Feel a Long Way from Paradise,” *New York Times*, Oct. 12, 2001, at A-18; *see also*, Survey on Education for Military Families in Hawai‘i, Nov. 2007; available at <http://www.Hawai‘i.edu/hepc/pdf/Reports/HIDOEMilitarySurvey.pdf>; last visited 6/12/09.

²⁷¹ Roderick McPhee, “Union policies hinder improvement efforts,” *The Honolulu Advertiser*, June 15, 1997, at B3.

²⁷² *Id.*

²⁷³ Watanabe, “Many public school teachers put own kids in private school,” *The Honolulu Star-Bulletin*, Oct. 10, 2001, available at <http://archives.starbulletin.com/2001/10/10/news/kokualine.html>, citing Denis P. Doyle, “Where Connoisseurs Send Their Children to School,” *Hudson Institute*, Nov. 11, 1999.

²⁷⁴ Denis P. Doyle, Brian Diepold, and David A. DeSchryver, *Where Do Public School Teachers Send Their Kids to School?*, (Sept. 7, 2004), available at http://www.edexcellencemedia.net/publications/2004/200409_wheredopublic/Fwd-1.1.pdf.

²⁷⁵ “Large Number of BOE Children Attend Private School: Some BOE Members Say Public Schools Do Not Meet Needs,” *KITV News*, May 2, 2003.

²⁷⁶ George R. Ariyoshi, John Waihee and Ben Cayetano, *Education Reform Must Put Kids First* (Jan. 31, 2010) *Honolulu Advertiser*, available at <http://the.honoluluadvertiser.com/article/2010/Jan/31/op/hawaii1310341.html>.

“The actual or perceived condition of Hawaii’s public schools is ... our State’s biggest business problem. ... Business leaders advise me of the problems with Hawaii high school graduates testing for entry-level positions in their companies Similar problems are experience by labor unions in Hawaii who find that Hawaii high school graduates are unable to pass apprentice examinations. ... The percentage of military families in Hawaii that home school their children is dramatically higher than in other military locations in the Unites States. ... Military leadership has considered establishment of Department of Defense schools in Hawaii.”²⁷⁷

The DOE/BOE blamed many of its problems on the No Child Left Behind (NCLB) law, but that legislation simply requires each state, as a condition of federal funding, to develop a plan for ensuring achieving its own goals. The plan must contemplate not only overall student success, but also success by groups at the low end of the achievement gap, such as low-income and non-English speaking students. Each school must demonstrate what’s called Annual Yearly Progress (AYP), which is determined primarily by test scores. Each state sets its own targets, writes its own exams, and measures the progress of its own students and there are consequences when a school fails repeatedly to make its AYP.²⁷⁸

[Need to add section on Race to the Top and other recent DOE initiatives. Include this quote from a DOE News Release on Aug. 21, 2013, in which the DOE was describing its new Strive HI Performance System: “For the first time, the DOE is holding schools accountable for achievement, growth, achievement gaps, and college and career readiness.” Check with DOE to see if this statement was a mistake, or if they think it’s literally true that the DOE has never held schools accountable for achievement, growth, achievement gaps, and college and career readiness. I think it is true, but I’m surprised that the DOE is saying it.]

[Need also to add a section on Furlough Friday. Some raw material: “While the Lingle administration definitely required state departments to make cuts in the face of steeply declining tax receipts as the economy tanked, the specific decision to cut that many instructional days was something worked out between the DOE and the HSTA.” A. Kam Napier, Wrong on Furlough Friday, Honolulu Magazine, Sept. 2012 (<http://www.honolulumagazine.com/Honolulu-Magazine/September-2012/Wrong-on-Furlough-Fridays/>). See also <http://www.honolulumagazine.com/Honolulu-Magazine/Off-My-Desk/September-2009/The-Indiscriminate-Axe-Part-2/>, The Indiscriminate Axe Part 2, Sept. 25, 2009. Honolulu Advertiser: “In scheduling 17 furlough days that will shut down Hawaii’s public schools, the DOE and the HSTA agreed not to use any of the six available waiver and professional development days to offset the loss of instructional time or relieve parents of child-care worries.” Christie Wilson, Hawaii teacher furloughs will cut class time, not preparation days, Sept. 25, 2009, at <http://the.honoluluadvertiser.com/article/2009/Sep/25/ln/hawaii909250361.html>. Napier: “It

²⁷⁷ D’Olier, “K-12 Public Education Redesign – Hawai‘i an Style,” presented to Social Science Association, Nov. 3, 2003.

²⁷⁸ Da Silva, “”School restructuring costs spark concerns,” The Honolulu Star-Bulletin, Sept. 2, 2008 (“Hawai‘i is among 23 states [that planned for] smaller achievement gains through the first half of the mandate and as a result face steeper, “potentially unreachable” goals as its deadline nears, according to a study last year by the nonpartisan Center on Education Policy.”).

was obvious in 2009, and should be remembered now, that Furlough Fridays was nothing less than organized government labor making sure the public would hurt just as much as the union over pay cuts. It was a strike, in everything but name.”]

Who (or What) Needs to Change?

By now, virtually everyone accepts that national test scores coming out of the state’s public schools are relatively low, and that there are other troubling indicators. Opinions differ widely, however, about who or what needs to change. Most of these positions fall into the following categories: (1) flawed assessments; (2) unions that are too politically strong; (3) inadequate funding; (4) deficient students; (5) inadequate system-wide leadership; (6) ineffective teachers and principals; and/or (7) a flawed governance structure. Although more than one of these may have some degree of validity, and some are interrelated, the author of this paper views the last category, flawed governance structure, as the primary and fundamental problem. Before making the case for that conclusion, however, the other six possibilities are considered:

Methods of assessment. Some people insist that Hawaii’s public-school students are doing great in ways that cannot be measured objectively, that the public should discount if not ignore completely the troubling test scores, and/or that individual success stories from within the public schools prove that every student has an opportunity for a quality education (i.e., if public school graduates can get into Ivy League schools, then Hawaii’s system is obviously not deficient). Although they are actually defending the governance structure, such supporters often position themselves as defending the *people* in the system. For example, a high-level DOE administrator recently responded to public criticism of DOE leadership, not by addressing relevant data, but by characterizing the critics as “disrespectful of and hurtful to the hardworking students, parents, staff, teachers, administrators, and complex area staff of our Hawaii public schools.”²⁷⁹

The writers and editors of *Honolulu Magazine* regularly hear the same sort of thing each year when they exam the DOE/BOE closely in an issue devoted to public education:

“We would probably never have taken up this crusade if our schools were even average, ranking say, 25th in the nation. But they don’t. They consistently rank near the bottom, and have for years—so we must do these articles, because it’s our job, our responsibility, to help our readers understand their community better so that all of us, the Hawaii public, can do something to make life better.”²⁸⁰

To defenders of the current governance structure, the mere mention of low test scores is an assault on the children. Such parties also regularly point out that standardized testing is not without its own shortcomings (which is obviously true), but they never offer an alternative way to hold anyone accountable for results. Here’s how a former head of the teachers union put it:

²⁷⁹ Ronn Nozoe, Op-Ed, “DOE needs Hamamoto,” *Midweek*, Aug. 5, 2009, at 4.

²⁸⁰ Editor’s page, *Schools and Stars*, May 2013, available at <http://www.honolulumagazine.com/Honolulu-Magazine/May-2013/Editors-Page-Schools-and-Stars/>

“The media keeps saying the schools are failing because the test scores aren’t as high as some of the rest of the nation. Obviously it’s true because the numbers state so, but is the test the only way you measure student success?”²⁸¹

The current head of the union stated:

“A major concern has been over the heavy use of student test scores to measure teacher effectiveness. No Child Left Behind has clearly demonstrated that over reliance on student test scores puts undue and unfair pressure on students without providing for a well-rounded education.”²⁸²

One wonders if the union would simply have individual teachers decide for themselves whether they are doing a good job of teaching their students. Putting any group in charge of holding itself accountable is the same as doing away with accountability.²⁸³

Critics of that kind of thinking have pointed out practical reasons why standardized testing should be taken seriously:

“Hawaii’s test scores have been at or near the bottom for years, and they are not getting better. ... I agree there are other achievement measures, but in the ‘real world,’ tests do matter a lot. Students need to demonstrate basic competence to get any good job and achieve a minimum test score to enter the military. Tests also determine admission to most post-secondary educational programs, which for most people is the primary gateway to a better life. And anyone wanting to work as a government clerk or secretary must pass a civil service test. ... Downplaying the importance of test scores is nothing more than an excuse for poor results.”²⁸⁴

Such critics also faulted the DOE/BOE for its refusal in the past to measure degrees of improvement in student performance.²⁸⁵ With the adoption of the Strive HI Index, the BOE/DOE supposedly will track students’ performance in reading, math and science, how well schools are improving students’ reading and math skills over time compared to other schools, whether a school is preparing its students to be college and career ready, and whether a school is

²⁸¹ Michael Keany, Honolulu Magazine, May 2009, quoting Roger Takabayashi, President of Hawai‘i State Teachers Association, available at <http://www.honolulumagazine.com/Honolulu-Magazine/May-2009/>

²⁸² Maui TV News, *HSTA Responds to BOE Comments As Talks Languish* (Dec. 12, 2012), quoting HSTA President Wil Okabe, available at <http://mauitvnews.com/blog/tag/wil-okabe/>.

²⁸³ Unlike responsibility, accountability cannot be shared. Accountability is “ultimate responsibility.” It is where the buck stops, as President Truman so famously put it. In order for a large organization to function properly, everyone from the top to the bottom needs to know where the buck stops in that organization. Where does ultimate responsibility lay? Who can be held accountable? In Hawai‘i’s public education system, there is no clear answer to these questions.

²⁸⁴ Lingle, “Student testing matters a lot,” *The Honolulu Advertiser*, at A17, Oct. 15, 2003.

²⁸⁵ Michael Keany, “Do Teachers Make the Grade?” Honolulu Magazine, <http://www.honolulumagazine.com/Honolulu-Magazine/May-2009/Do-Teachers-Make-the-Grade/>, May 2009, (last visited Aug. 16, 2013).

closing achievement gaps between high-needs students and non-high needs students.²⁸⁶ The Strive HI Performance System is still in the implementation phase, so results will not be available for a few years.

Unions. Hawaii's single-employer, highly centralized public education system benefits unions enormously. It gives them the distinct advantage of having to negotiate only one contract for the entire state. Their stranglehold on the system would weaken dramatically if they had to negotiate with separate employers, such as local school boards.²⁸⁷ Also of significant benefit to the unions is that for many years they would routinely find themselves sitting across the negotiating table from rank amateurs, such as school board members and administrators who had no training or experience in negotiating union contracts. (Private-sector employers utilize the services of an Employers' Council, pitting professionals against professionals.) Officials of the teachers and principals unions have negotiating expertise and a fiduciary duty to pursue the interests of their members to the exclusion of all other interests. Due to this, it is not surprising that they have historically negotiated agreements to elevate the interests of union members above those of students, parents, and the public.

The unions' power may explain why it is an epic undertaking to remove even an obviously ineffective teacher from the classroom. It also helps explain why teachers with seniority have "bumping" rights,²⁸⁸ even when that is not in the best interests of the affected schools. A recent article in *Honolulu Magazine* quoted a principal who said he regularly loses exceptional teachers after they have connected with the students, simply because teachers with more seniority "were placed" at his school.²⁸⁹

The teachers union may also have something to do with the perennial shortage of teachers in Hawaii. Starting pay for a teacher in Hawaii is about \$43,759 (those with a master's degree start at \$47,259), plus another \$19,000 in fringe benefits.²⁹⁰ The total exceeds \$80,000 when annualized. That amount compares quite favorably to starting pay for other jobs in Hawaii requiring a comparable education. Yet year after year, there is a shortage of public school teachers, which the teachers union cites as a reason to raise teacher salaries and benefits even higher. Some observers believe that the HSTA and others with vested interests have used their political influence to make it difficult for mainland teachers to get certified and hired in Hawaii. Teachers from the mainland have found the process labyrinthine, which can only be a deterrent to interested and qualified teachers from out of state.

²⁸⁶ State of Haw., Dept. of Education, Strive HI Performance System – Strive HI Index, (Aug. 16, 2013, 12:13 P.M.), <http://doeweb2.k12.hi.us/strivehisystem/strivehiindex.htm>.

²⁸⁷ Because the DOE is centralized and all teachers are employed by the DOE, the HSTA only has to negotiate one contract. If the DOE was not centralized and teachers were employed by hypothetical local school boards, the HSTA would have to negotiate with all of the school boards.

²⁸⁸ Teachers who are laid off from one area, may "bump" the least senior teacher in another department if they are certified to teach in it and their service time exceeds that of the bumped teacher. Honolulu Civil Beat, *Hawaii Teacher Firing*, (Aug. 16, 2013, 2:19 P.M.) available at <http://www.civilbeat.com/topics/hawaii-teacher-firing/>

²⁸⁹ *Id.* at note 219, quoting Gerald Teramae, Principal of Kalani High School.

²⁹⁰ "Teachers' Salary Schedule, Effective School Year 2013-2014," available at <http://www.hawaiipublicschools.org/DOE%20Forms/OHR%20Employment/TeachersSalary2013.pdf>, (see schedule for teachers who have completed a state-approved teacher education program, and who have 0 years experience); Kubota, "State moves up in per-student spending," Honolulu Star-Bulletin, July 28, 2009.

[The cost of fringe benefits in FY 2013 added another 44.54%, according to a memo from Amy S. Kunz, Assistant Superintendent and Chief Financial Officer, entitled Fringe Benefit Rate for FY 2013, dated July 20, 2012.]

Teachers' unions, however, are common, and it would not be surprising to hear of teacher-union officials in other states who similarly seek and use political leverage to enhance the interests of teachers. What makes Hawaii unique with respect to union influence is the existence of unionized management. A former dean of the College of Education at the University of Hawaii called it bizarre that the system's managers would belong to a union. Governor Cayetano offered large pay increases for all the principals if they would agree to decertify the union, but the principals declined.²⁹¹ Imagine the management of any other enterprise in Hawaii, or anywhere else, insisting upon near-absolute job security and salaries totally unrelated to job performance or outcomes.

Roderick McPhee, a former Superintendent of a mainland public school system and longtime President of Punahou School, opined repeatedly that student achievement in Hawaii's public schools would continue to languish as long as the principals belonged to a union.²⁹² He explained that union contracts make it impossible to hold principals accountable, and then added, "If not the principal, who do you hold accountable for student achievement?"

Some people view the unions as part of a politically dominant, "unholy alliance"²⁹³ that blocks every effort to change the status quo (unless the change would add to the union's power). One critic privately called it an iron triangle, consisting of union officials, leaders of the DOE/BOE, and legislators who are dependent on the unions. Commentator David Shapiro thinks this cabal only pretends to care about "real" reform:

"To the Democrats [in the Legislature], the 'stakeholders' are those who derive power from Hawaii's floundering school system – lawmakers, Board of Education members, administrators and unions representing school employees. Getting them together means cutting a political deal that lets everybody retain their power while giving the false appearance of school reform."²⁹⁴

Money. Members of the unholy alliance/iron triangle contend that student achievement will increase significantly only when a lot more money is spent on public education.²⁹⁵

²⁹¹ "Union policies hinder improvement efforts," Honolulu Advertiser, June 15, 1997, at B3.

²⁹² Id.

²⁹³ The Unholy Alliance was a wrestling tag team managed by Sinister Minister, but the term dates back to the Western European alliances with the Ottoman Empire against the interests of Russia, Greece, and most of the Balkans. The implication is that a small group have banked together to act in their mutual self-interest regardless of the consequences to others.

²⁹⁴ David Shapiro, "Education reform? Forget it," The Honolulu Advertiser, October 15, 2003

²⁹⁵ See, e.g., Randolph Moore, "Power, Trust, and Resources: Why Act 51 Challenges the Hawai'i Department of Education," Speech to Honolulu Rotary, February 1, 2005 ("A study commissioned by the Board of Education and released last week reported that if Hawai'i utilized best educational practices, we would need to spend an additional \$1,500 per student per year. We now spend about \$9,000 per student.")

“Roger Takabayashi, president of the HSTA ‘bristles’ when people claim the system is broken. ... ‘The state has not adequately financed public education and real change will not happen until teachers are better paid.’”²⁹⁶

The Honolulu Advertiser agrees: “Ultimately, we get what we pay for. ... Low pay for teachers is an embarrassment.”²⁹⁷

Such comments are difficult to reconcile with available data. According to the National Education Alliance Rankings and Estimates for 2013, Hawaii’s average teacher salary of \$54,070 ranked 20th among the 50 states;²⁹⁸ and the starting salary for beginning teachers, \$32,092, ranked 13th from the top.²⁹⁹ For internal accounting purposes, the DOE’s 2013 fringe benefits cost 41.54 percent of salary.³⁰⁰ Applying that rate to the NEA numbers produces an average total compensation (salary plus benefits) of at least \$76,530 (and a starting compensation package of \$45,423). In 2007, Census Bureau data indicated that the average number is higher. They put Hawaii at 14th highest among the 50 states, at approximately \$51,922.³⁰¹ On a per-student basis, average teacher pay in Hawaii reportedly is \$6,681, as compared to a national average of \$6,387.³⁰²

Hawaii was 13th highest among the 50 states in per-student expenditures for 2011: \$12,004 versus a national average of \$10,560.³⁰³ These numbers exclude a number of categories such as capital expenditures and debt service, but the results are essentially the same when those items are included in all the states’ numbers. When every category of education spending is included, Hawaii’s per-student annual spending last year was about \$13,624.³⁰⁴

²⁹⁶ The Honolulu Advertiser, p. B4, 10/23/03.

²⁹⁷ The Honolulu Advertiser, p. A14, 7/11/03 (editorial noting that although Hawai‘i ranks 17th highest among the states, it is last once adjusted for cost of living).

²⁹⁸ National Education Alliance, *Rankings and Estimates - Rankings of the States 2012 and Estimates of School Statistics 2013*, 19 available at [http://www.nea.org/assets/img/content/NEA_Rankings_And_Estimates-2013_\(2\).pdf](http://www.nea.org/assets/img/content/NEA_Rankings_And_Estimates-2013_(2).pdf).

²⁹⁹ National Education Alliance, *2011-13 Average Starting Teacher Salaries by State*, (Aug. 16, 3:40 P.M.) available at <http://www.nea.org/home/2011-2012-average-starting-teacher-salary.html>.

³⁰⁰ State of Haw., Dept. of Education, Office of Fiscal Services, *Fringe Benefit Rates for FY 2013*, (July 20, 2012), available at http://165.248.6.166/CasualPayroll/2012-07-20_Fringe_Benefit_Rates_for_FY_2013.pdf.

³⁰¹ U.S. Census Bureau, *State Rankings - Public Elementary And Secondary School Teachers' Average Salaries, 2007*, available at <http://www.census.gov/compendia/statab/2012/ranks/rank20.html>.

³⁰² U.S. Census Bureau, *Public Education Finances: 2011*, Table 8 <http://www2.census.gov/govs/school/11f33pub.pdf>.

³⁰³ U.S. Census Bureau, *Public Education Finances: 2011*, Table 8 <http://www2.census.gov/govs/school/11f33pub.pdf>.

³⁰⁴ This figure is arrived at by dividing total expenditures by total enrollment based on data contained in the 2012 Superintendent’s 23rd Annual Report. The BOE/DOE contends that the number is meaningless, because it includes items processed by the Budget & Finance Department (e.g., fringe benefits) and money spent on facilities or debt service necessitated by investment in facilities. This author believes the all-inclusive per-student number is helpful in comparing the resources of public schools to private schools. According to the Hawaii Association of Independent Schools, most private schools in Hawaii rely on tuition revenue for the bulk of not just operating costs but also debt service on capital-improvement debt. The all-inclusive number is also helpful in judging the fairness of moneys paid to the charter schools that have to provide their own facilities.

Principals are paid based on the level of the school (elementary or secondary) and its size (there are seven difference levels, all based on enrollment numbers). The average salary for a public school principal is \$103,200, compared to \$85,700 nationally; \$91,700 for principals with less than 3 years of experience, \$102,500 for principals with 3 to 9 years of experience, and \$111,200 for principals with 10 or more years experience, compared to national averages of \$80,700, \$85,700, and \$90,300 respectively.³⁰⁵ The salary range is \$85,000 to \$121,000 for elementary, and \$110,000 to \$155,000 for high schools. There is a separate pay range for middle school principals that is between the elementary and high school ranges. Fringe benefits add about 40% to those numbers.

The Superintendent regularly has stated in annual reports that the state's capacity to fund public education exceeds the current level of funding.³⁰⁶ As a percent of total taxable resources, the amount spent in Hawaii (3.3 percent) is only slightly lower than the national average (3.7 percent) despite a relatively high percentage of children attending private schools.³⁰⁷ Well-financed public education systems tend to produce better outcomes than do poorly financed systems, but funding seems not to be an obvious reason for Hawaii's disappointingly low levels of student achievement and high levels of teacher frustration.³⁰⁸

Deficient public-school students. Another popular chestnut is that Hawaii's private schools cherry-pick the state's best-behaved and top-performing students, leaving the public schools with children who, as a group, will never achieve academic success. Hawaii's former Speaker of the House of Representatives, Calvin Say, expressed this kind of thinking several years ago:

"I've always said our public school system is doing a fantastic job with the composition of students that we have The standardized test scores of Hawaii's high school students fall below the national norm because all the bright ones ... apply to private schools."³⁰⁹

However, only 15.8 percent of Hawaii's school-age children (34,132 from a total population of 215,345) attended private schools in 2010.³¹⁰ This placed Hawaii 12th from the top among the 50 states—hardly an explanation for test scores in the bottom tier nationally.³¹¹ And,

³⁰⁵ National Center for Education Statistics, *Schools and Staffing Survey -Table 5. Average annual salary for public school principals, by years of experience as a principal and state: 2007–08*, available at http://nces.ed.gov/surveys/sass/tables/sass0708_2009323_p1s_05.asp

³⁰⁶ Superintendent's Annual Report on Hawaii Public Education 2012, Table 16 and Chart 3, p. 11, available at http://arch.k12.hi.us/state/superintendent_report/annual_report.html; see also, University of Hawaii Public Policy Center, "Report to the 2009 Legislature," SCR 118 S.D. 1, H.D. 1 (January 2009).

³⁰⁷ See "Quality Counts 2009," *supra* at note 60, at 52.

³⁰⁸ Kwak, *supra* at note 50.

³⁰⁹ Dunford, "Forums to discuss school system," The Honolulu Star-Bulletin, Oct. 10, 2003 quoting Hawai'i State House of Representatives Speaker Calvin Say; see also, Moore, *supra* note 117. "The private schools are populated by students who generally speak English at home, who do not suffer emotional or mental handicaps, and whose parents believe education is so important they are willing to pay taxes to support the public schools and also pay private school tuition. Public schools are disproportionately populated by challenging students and challenging families."

³¹⁰ State of Haw., Dept. of Education, Superintendent's 23rd Annual Report (2013).

³¹¹ Kwak, *supra* note 50. Although not necessarily relevant, it is interesting that the percentage of Hawai'i's school-

as discussed above, Hawaii's demographics (e.g., percentage of students from families that have a single parent or are relatively poor and/or non-English speaking) suggest that our students can reasonably be expected to perform at least at the level of the national average.³¹²

Even if the percentage of children attending private schools were to increase significantly or the percentage of at-risk children would increase, former BOE member Laura Thielen and Honolulu Advertiser columnist David Shapiro would presumably still be in fundamental disagreement with Speaker Say. They view academic achievement primarily as a function of opportunity:

“Some people claim our public student test scores in Hawaii are low because so many students come from low-income families, speak English as a second language or face learning disabilities. Lurking behind this argument is the implication that at-risk students cannot learn. ... Children from low-income families have less preparation, but not less potential to learn.”³¹³

“[Speaker Say's] suggestion that the problem rests with an overload of students from poor families and those who speak limited English is especially insulting. ... The problem isn't students' inability to learn; it's the system's failure to teach them.”³¹⁴

On the national scene, President Barack Obama has argued that ethnicity and economic circumstances are overrated as predictors of student achievement: “From the moment students enter a school, the most important factor in their success is not the color of their skin or the income of their parents, it's the person standing at the front of the classroom.”³¹⁵

System-wide leadership. The BOE is a part of the DOE in the same way that a corporation's board of directors is a part of that corporation. The BOE is composed of nine voting members, one non-voting student representative, and one non-voting military representative.³¹⁶ To be a member of the BOE, the Governor must nominate the individual, and the Senate must approve the appointment.³¹⁷ It is the Board's responsibility to “formulate statewide educational policy and appoint the superintendent of education as the chief executive officer of the public school system.”³¹⁸ The members are not paid and serve on the board for three years.³¹⁹

age children in private schools at the time of statehood, at 15.9 percent, was slightly *higher* than it is now.

³¹² See discussion in essay *supra*, at notes 57-61.

³¹³ Laura Thielen, “Hawai'i's Public Schools in the Midst of Crisis,” *Hawai'i Reporter*, Sept. 23, 2003; see also, Thielen, “No Child requires Hawai'i to change,” *Honolulu Advertiser*, Sept. 30, 2003, at A8.

³¹⁴ David Shapiro, “Education reform? Forget it,” *The Honolulu Advertiser*, Oct. 15, 2003.

³¹⁵ See http://www.whitehouse.gov/the_press_office/Remarks-of-the-President-to-the-United-States-Hispanic-Chamber-of-Commerce/

³¹⁶ Board of Education, *By Laws of the Hawaii Board of Education*, art. 2. (May 27, 2011), available at <http://www.hawaii.boe.net/Meetings/Notices/Documents/04-26-11%20GBM/Board%20of%20Education%20By%20laws%20Final.pdf>

³¹⁷ Haw. Const. art. X, § 2.

³¹⁸ *Id.*, Sec. 3.

³¹⁹ Board of Education, *By Laws of the Hawaii Board of Education*, art. 2. (May 27, 2011), available at

Critics of the current board member selection process say that it gives too much power to the Governor.³²⁰ Critics of the current board have a unfavorable view of the board meetings being held in during the workday.³²¹ Current HSTA President said that the board has not “lived up to its pledges to remain independent and accessible.”³²² However, the new board has also received praise. Some community members have said that the board “has stepped up communication with the community, including by holding a series of ‘talk story’ gatherings, and has approached issues with a singular focus on improving schools.”³²³

When members of a governing board attempt to manage, it is often called micromanagement (or, less charitably, “meddling”). The practice can be a nuisance in institutions of modest size and create chaos in organizations that already are unwieldy. As noted above, the DOE/BOE is directly responsible for 286 schools, which are 280 more than are entrusted to the care of most school boards; its \$2.46 billion budget is larger than any other organization in the state; and its employees outnumber those of the state’s eight largest private employers *combined*. In a system of this size and complexity, micromanagement by board members is far more than just a nuisance—it confuses and frustrates staff members, and undermines the authority of the Superintendent.

Prior to the appointment process of board members, members were elected to the BOE. Many people thought an appointed board would work better, because the appointing official would seek out individuals with expertise that is diverse and relevant, and that the public would know who to hold accountable (the Governor) if the BOE failed to produce acceptable results. As noted above, this was a particularly controversial issue in the early 1960s, when Governor Quinn fought to maintain an appointed school board, and his successor, Governor Burns, championed the notion of an elected board. Burns achieved his goal in 1964.³²⁴ The author of this essay would favor electing members of local school boards, and appointing members of a statewide board. This is how it’s done in most of the other states.

Three former governors of Hawaii, all Democrats, issued a “manifesto” in early 2010, in which they described the public education system as broken, and suggested three major changes, including replacement of the elected BOE with an appointed one.³²⁵

[http://www.hawaiiboe.net/Meetings/Notices/Documents/04-26-11%20GBM/Board%20of%20Education%20By laws%20Final.pdf](http://www.hawaiiboe.net/Meetings/Notices/Documents/04-26-11%20GBM/Board%20of%20Education%20By%20laws%20Final.pdf)

³²⁰ Honolulu Star Advertiser, *BOE members' first year nets praise and criticism*, (Apr. 28, 2012), available at http://www.hsta.org/images/uploads/April_28_BOE_members_first_year_nets_praise_and_criticism_-_Hawaii_News_-_Honolulu_Star-Advertiser.pdf

³²¹ Honolulu Star Advertiser, *BOE members' first year nets praise and criticism*, (Apr. 28, 2012), available at http://www.hsta.org/images/uploads/April_28_BOE_members_first_year_nets_praise_and_criticism_-_Hawaii_News_-_Honolulu_Star-Advertiser.pdf

³²² Honolulu Star Advertiser, *BOE members' first year nets praise and criticism*, (Apr. 28, 2012), available at http://www.hsta.org/images/uploads/April_28_BOE_members_first_year_nets_praise_and_criticism_-_Hawaii_News_-_Honolulu_Star-Advertiser.pdf

³²³ Honolulu Star Advertiser, *BOE members' first year nets praise and criticism*, (Apr. 28, 2012), available at http://www.hsta.org/images/uploads/April_28_BOE_members_first_year_nets_praise_and_criticism_-_Hawaii_News_-_Honolulu_Star-Advertiser.pdf

³²⁴ Am HB 421 (1964), Haw. Const., art. X, § 2.

³²⁵ See, Hawaii Children First at <http://www.hawaiichildrenfirst.org/>

“Ask yourself: How many members of the Board of Education can you name? What do you know about their backgrounds? What is their position on education? Most people will have difficulty answering these questions. In contrast, voters closely watch each election for governor and the major issues in the campaigns are well reported and understood. If the governor were accountable for public education, student outcomes and key education issues would be highlighted as a major part of the state’s main political campaign. ...

“An elected school board may seem more democratic; but few individual voters watch school board campaigns nearly as closely as do the unions that represent teachers, administrators and other employees of the Department of Education.”³²⁶

Former superintendent Hamamoto has publicly describes herself as someone who was frequently frustrated with the bureaucracy, who as a principal had to work around the DOE to get things done.³²⁷ Nine years ago, she labeled Hawaii’s public-education system “obsolete.”³²⁸ Hamamoto was in an impossible situation during her seven years as superintendent. The “buck” did not stop at her desk, because in Hawaii’s one-of-its-kind system, the buck stops nowhere. If she is to be faulted, it is for never insisting that the BOE and the Legislature take steps to build accountability into the system.

“There is no doubt about the sincerity of the superintendent, members of the BOE, school principals, or teachers. They are among the most dedicated of public servants. However, their ability to improve student learning has been severely restricted by the way in which Hawaii’s public education system is organized. The oversized, overly centralized and bureaucratic Department of Education is not able to realize and utilize the unlimited creative potential of those within the organization.”³²⁹

The teachers and principals. In the May 2009 issue of *Honolulu Magazine*, however, writer Michael Keany suggests that teachers might bear some responsibility for the low levels of student achievement in Hawaii’s public-education system:

“[F]or eight years, we have covered a state public school system that consistently ranks among the worst in the nation. When we first hit this subject in 2001, this poor ranking had already been the norm for years. The student body changes every year. But the adults who work in the system are the same. ... We have to ask. Does Hawaii’s poor educational performance, just maybe, have anything to do with the teachers?”³³⁰

³²⁶ Id.

³²⁷ Pat Hamamoto, “The State of Public Education,” Jan. 28, 2004.

³²⁸ Id.

³²⁹ John Kawamoto, “Decentralizing needs open discussion,” *The Honolulu Star-Bulletin*, at A12, Oct. 10, 2003.

³³⁰ Keany, *supra* note 127.

Keany points out that the National Council on Teacher Quality ranked Hawaii as ‘Last in Class’ in 2007; that a 2008 report on retention of effective new teachers gave Hawaii a D grade; and that none of the DOE’s definitions of good teaching is connected to student outcomes in a quantifiable way.

Prior to 2013, teachers are evaluated periodically, but the process is subjective and union contracts limit the ways it can be done: principals assess each teacher as “satisfactory,” “marginal,” or “unsatisfactory” in five areas. And as noted above, it usually takes at least two or three years to remove an “unsatisfactory” teacher from the classroom. Keany quotes Gerald Teramae, Principal of Kalani High School:

“In the business world, if you don’t do your job, if you don’t show up to work on time, meet your deadlines, the [removal] process is not going to take three years. What if that was your kid, [who] had to be in that teacher’s class?”³³¹

And, as noted above, once one principal finally manages to replace a problem teacher, that teacher simply becomes another principal’s problem. That was the old system, and the new system “was a key pledge [. . .] in the state’s application for its \$75 million federal Race to the Top grant.”³³²

In school year 2013-14, the DOE unveiled its new “‘educator effectiveness’ system (EES) — a redesigned teacher evaluation that takes into account student academic achievement.”³³³ The following year, “pay raises and other personnel consequences, such as termination, will be tied to teachers’ ratings.”³³⁴ Top DOE administrators commented on the new evaluation system:

"This is not about firing teachers. It's about trying to improve teaching. We hire 800 to 1,000 new teachers a year. We're not looking to get rid of people. We want to help our current teachers get better."³³⁵

"Effective teachers are key to achieving our goals with students, and the new evaluation design provides teachers with the actionable feedback they

³³¹ *Id.*, quoting Gerald Teramae, Principal of Kalani High School.

³³² Nanea Kalani, *New Evaluations to Greet Teachers as Classes Begin*, Honolulu Star-Advertiser (Jul. 3, 2013), available at http://www.staradvertiser.com/newspremium/20130703__New_evaluations_to_greet_teachers_as_classes_begin.html?id=214111121

³³³ Nanea Kalani, *New Evaluations to Greet Teachers as Classes Begin*, Honolulu Star-Advertiser (Jul. 3, 2013), available at http://www.staradvertiser.com/newspremium/20130703__New_evaluations_to_greet_teachers_as_classes_begin.html?id=214111121

³³⁴ Nanea Kalani, *New Evaluations to Greet Teachers as Classes Begin*, Honolulu Star-Advertiser (Jul. 3, 2013), available at http://www.staradvertiser.com/newspremium/20130703__New_evaluations_to_greet_teachers_as_classes_begin.html?id=214111121

³³⁵ Nanea Kalani, *New Evaluations to Greet Teachers as Classes Begin*, Honolulu Star-Advertiser (Jul. 3, 2013), available at http://www.staradvertiser.com/newspremium/20130703__New_evaluations_to_greet_teachers_as_classes_begin.html?id=214111121, quoting Superintendent Kathryn Matayoshi.

need to help drive their professional development and support their own growth plans. This is more than an evaluation; it's a system."³³⁶

[I need to add a section here on EES, including the results of the principals survey that was taken in April, 2014.]

Some people fault the principals, contending that effective principals are entrepreneurial, but that principals in Hawaii usually come up through the system and tend to be bureaucratic.³³⁷ The College of Education at the University of Hawaii dean in the early 1990s, John Dolly, viewed this as self-perpetuating, saying that individuals who wanted to become a principal in Hawaii first had to establish themselves as “team players.” He was particularly critical of individuals who want both to lead and to belong to a union: “If principals are to lead, they need to be out of the union, exercising leadership.”³³⁸ Like McPhee, Dolly’s primary concern was accountability: How do you hold accountable someone whose compensation is bargained for collectively and who has near-absolute job security? Because of tenure rights, the only way to remove an ineffective principal from a school is to promote that individual to central administration.

While observations like these are sometimes heard, few people in Hawaii blame the individual teachers and the principals for the problems with public education. On this issue, the author of this essay agrees with the Business Roundtable’s assessment:

“The teachers and administrators who serve our children are for the most part dedicated, talented professionals. These men and women are the solution to our educational challenges, not the problem. The problem is our system.”³³⁹

A flawed governance structure. For years Rod McPhee insisted that Hawaii’s governance structure was *the* reason student-achievement levels are so low. He regularly described that system as too centralized, too bureaucratic, too protective of its under-performing employees, and too adverse to innovation.³⁴⁰ He charged that the DOE, rather than focusing system resources on helping teachers teach and principals manage, constantly busies itself with procedures and processes that actually burden the professionals at the school level. McPhee lamented that the public cannot hold accountable anyone at the school level as long as control resides outside the schools, and it cannot hold the DOE/BOE, the Legislature, or the Governor

³³⁶ Nanea Kalani, *New Evaluations to Greet Teachers as Classes Begin*, Honolulu Star-Advertiser (Jul. 3, 2013), available at http://www.staradvertiser.com/newspremium/20130703__New_evaluations_to_greet_teachers_as_classes_begin.html?id=214111121, quoting Deputy Superintendent Ronn Nozoe.

³³⁷ William Ouchi as quoted in Honolulu Advertiser; see also, Issue Brief, NGA Center for Best Practices, Sept. 12, 2003 (Research also suggests that many current and potential principals lack the skills necessary to lead in today’s schools.... Historically, school leaders were expected to perform primarily managerial and political roles. Schools of the twenty-first century will require a new kind of principal.”

³³⁸ Price of Paradise, chapter 32, “Public Schools,” (Mutual Publishing 1992) at 217.

³³⁹ Hawai‘i Business Roundtable Position Paper, p. 1, Mar. 2, 2004. See also, Morioka, “Local control needed to improve schools,” Honolulu Star-Bulletin, July 24, 2003 (“Hawai‘i’s public schools are filled with competent, caring teachers and students who have all the potential in the world.”)

³⁴⁰ See, e.g., Roderick McPhee, “Public Education,” Chapter 4 in *The Price of Paradise, Volume II*, p. 29 (Mutual Publishing 1993).

accountable, since no one of them controls the system. As McPhee once put it, “When everyone is in control, no one is in control.”³⁴¹

Although many people agree with McPhee, many others find it difficult to believe that a governance structure could so substantially affect student learning. After all, the key to student success is supposed to be what goes on in the classroom. How can decisions made in an office building far removed from the classroom affect the way teachers teach and students learn? And what difference does it make whether funding and spending decisions are made by the Legislature, the Governor, or the DOE/BOE? The following comment on the Star-Bulletin’s comments page is illustrative:

“Everybody talks about the lack of accountability due to the large bureaucratic system and that we should decentralize the state educational system but let me assure you that would have no bearing as to what is taking place in the classroom and would not mitigate the burden placed on the teachers dealing with the paper maze, controlling students in the classrooms, and the numerous interference by outsiders All of these critics, UH professors, reporters, lay citizens that criticize the local educational system have no clue as to what the teachers go through in the classroom. How will decentralization assist the teacher?”³⁴²

The truth is that organizational structure matters a lot. For some, it’s intuitive that centralization and diffused responsibility are the fundamental problems. For others, those are just meaningless words in their personal, experience-based world. Sometimes it helps people like that to talk in terms of accountability. Say, for example, that a teacher perceives a huge problem at her school and she wants something done about it. Imagine how frustrating it would be if everyone she went to just pointed at someone else. It’s called “buck passing.” To prevent that, an organization needs clarity as to exactly where the buck stops.³⁴³ That’s accountability, and it’s missing in both the DOE and in the governance of the DOE.

When the important decision-making is performed outside the schools, it’s unfair to hold anyone at the school level accountable for the consequences of those decisions, especially when school-level personnel are forced to spend an inordinate amount of time complying with bureaucratic processes devised by information-starved central managers – as is the case now. And even if it weren’t unfair to hold a particular principal accountable for student success at that principal’s school, how would you go about doing so? After all, that principal’s salary, benefits, and job security are totally unrelated to job performance and student outcomes.

If it weren’t for the human condition, accountability might not be important. People would always do their best, regardless of what might or might not be in it for them. They would obey every law even if enforcement was impossible, and all of us would continue to eat the right

³⁴¹ Roderick McPhee, “Union policies hinder improvement efforts,” The Honolulu Advertiser, June 15, 1997, at B3.

³⁴² Honolulu Star-Bulletin, Aug. 19, 2009, comment #5, from “satch7,” available at http://www.starbulletin.com/editorials/20090819_Hawai‘is_schools_A_bureaucratic_maze.html

³⁴³ President Harry Truman is credited with having made a point about the president’s accountability by famously saying, “the buck stops here.”

foods in the right quantities, even if there were no negative consequences to eating whatever might appeal to us at any particular time.

It obviously is true that a different governance structure would not automatically lead to higher levels of student achievement. The point, though, is that it would make that outcome *possible*. So, rather than view a new governance structure as a “silver bullet,” the current one perhaps should be seen as an impassable roadblock:

“There is no guarantee that changing education governance will improve the quality of education. But changing governance by decentralizing decision-making would provide a sound organizational foundation that would allow improvements to be made.”³⁴⁴

For many, the problem has as much to do with the system’s size as it does its structure. A system can be filled with competent and caring individuals, yet consistently fail the students—particularly the most vulnerable students—simply because of the system’s unwieldy size:

“A respectable amount of research shows that the larger the school district, the lower the achievement levels of its students. And a compelling amount of research indicates that the relationship between the size of the school district and the success of its students is particularly strong for disadvantaged students.”³⁴⁵

Efforts to Change Hawaii’s Public School Governance Structure

Various Governors and other government officials have recognized that the DOE’s centralized, top-heavy governance structure is preventing Hawaii’s public school system from performing well, and have tried to change it.³⁴⁶ So far, no one has succeeded.

In 1973, at time when nearly half the parents in the Legislature were sending at least one of their children to a private school,³⁴⁷ the State Auditor issued a stinging report. According to it, the DOE was “top-heavy,” there was “buck-passing,” central administrators “lacked direction” and “did not really know what was going on in the schools,” and public accountability was “lacking.” Furthermore, school advisory councils were being “held back,” and the BOE was spending almost all its time “managing and controlling central administration rather than formulating policies and overall strategies for public education.”³⁴⁸ In other words, no one was taking responsibility, no one knew what was going on (nor did they even have a way of finding out) and those who might want to step up to the plate were being prevented from doing so.

³⁴⁴ John Kawamoto, “Decentralizing needs open discussion,” The Honolulu Star-Bulletin, at A12, Oct. 10, 2003.

³⁴⁵ Mary Ann Raywid, by Joe Bard, Clark Gardener & Regi Wieland, “Rural School District Consolidation,” Vol. 4, Issue 2, Academic Leadership – The Online Journal, Feb. 12, 2007 ; see also Laura Thielen, “Hawai‘i’s Public Schools in the Midst of Crisis,” Hawai‘i Reporter, 9/23/03.

³⁴⁶ Needs cite

³⁴⁷ Armstrong, “Where Legislators Send Their Children to School,” Honolulu Star-Bulletin, Mar. 10, 1973, at 1.

³⁴⁸ Armstrong, “What’s Wrong at the DOE?,” Honolulu Star-Bulletin, Feb. 23, 1973.

Soon thereafter, Governor Burns appointed a Commission on Operations, Revenues, and Expenditures (CORE) that recommended decentralization. In doing so, it noted that equitable funding could be retained,³⁴⁹ even in a decentralized system. The 1974 CORE Report noted that funding appeared not to be a problem, and that decentralization was possible without loss of equitable funding.³⁵⁰ Despite Burns' goal of decentralizing the DOE, the system remained highly centralized.

By 1988, little had changed. The Berman Report, published that year, described the public school governance structure as "overly centralized" and incapable of holding anyone accountable for student achievement.³⁵¹ It then laid out a detailed plan of decentralization:

"The public school system should be gradually shifted to a community-centered school system [L]ocal schools and community boards would have the authority to control their educational programs and to be accountable for results. Principals and teachers would be empowered to tailor their school to local conditions, and parents would have a choice of schools and small schools-within-schools. Authority in the system would be clarified so that statewide leadership could set high standards."³⁵²

Governor Waihee used this report in his contemporaneous efforts to decentralize the system. He noted a need to change the "culture" of the DOE: "Nowhere is the need for a change of mindset so poignant than in the way we govern our schools."³⁵³ After much arm-twisting, he convinced the Legislature to authorize a form of SCBM that would function almost like local school boards.

"In 1989 [Governor Waihee] called for a system where 'local school communities would have charge of almost all budgets, setting educational programs and priorities and increased involvement in staffing.'"³⁵⁴

Three years later, however, Berman expressed deep skepticism about the system's intentions and its ability to change, and doubted that the DOE would ever reform itself.³⁵⁵

"[DOE officials] continue to send signals that are in conflict with the expressed decentralization intent [and] it thus seems to many that the DOE is not really interested in true reform, only in a process that looks like decentralization."³⁵⁶

³⁴⁹ CORE Report, p. A-15

³⁵⁰ CORE Report, p. A-26

³⁵¹ BW Associates, "Educational Excellence for the Pacific Era," (Berman Report) p. 19, November 15, 1988.

³⁵² *Id.*, p. 8; cite Slater, et al, too.

³⁵³ Governor John Waihee as quoted at Tschumy, "Reinventing education," Honolulu Star-Bulletin, Dec. 5, 2004.

³⁵⁴ Borreca, "Politicians keep talking, students keep waiting," The Honolulu Star-Bulletin, Nov.30, 2003.

³⁵⁵ *Id.*

³⁵⁶ 1991 Berman Report, Legislative Reference Bureau.

A year later (1992), Governor John Waihee formed a Task Force on Educational Governance, with then-Lt. Governor Ben Cayetano as its chairman. Waihee saw a need to decentralize, and Cayetano's Task Force agreed:

“The State’s existing highly centralized system has distanced Hawaii’s people from their schools and has become unable to respond appropriately to the State’s continually changing and developing educational needs.”³⁵⁷

The Task Force said the system’s focus should be on student achievement rather than on “processes and procedures,” and that this should be done by shifting decision-making to the schools, and linking teacher and administrator assessments to student achievement.

Aware of Strembitsky’s work in Edmonton, the Task Force recommended that principals be allowed to purchase services from the private sector if the DOE and other state agencies failed to provide valuable support services in a timely and cost-effective manner. This would serve “as a means of ensuring the responsiveness and appropriateness of [DOE] services to school needs.” The Cayetano Task Force also recommended lump-sum budgeting for the Legislature and something akin to that for the Governor:

“It is important and necessary that the Governor have sufficient fiscal controls to ensure that expenditures do not exceed revenues. However, the purpose for exercising such controls should be explicitly stated when imposed to ensure that the public is fully informed of actions affecting education. Furthermore, restrictions should only be imposed for anticipated revenue shortfalls and not because of policy differences. The DOE and SCBM councils at the school level should have the discretion to determine where their actual reductions will be made.”³⁵⁸

Several Task Force members noted “a cacophony of orchestrated [opposition],”³⁵⁹ and blamed the teachers union for its sending agents to sabotage the Task Force’s effort to empower SCBM:

“Teachers espousing the Hawaii State Teachers Association’s position ... expressed nearly hysterical fears – fear of losing job security; fear of being accountable The ‘tug of war’ that developed wearied the Task Force into capitulating and gutting empowerment from SCBM. Without the power to make fiscal and personnel decisions, SCBM would be rendered impotent.”³⁶⁰

The Superintendent under Waihee, Charles Toguchi, also felt strongly that the system needed a transformation. He sent a team to study how Strembitsky had dramatically raised the

³⁵⁷ 1992 Task Force on Education Governance, Benjamin Cayetano, Chairman, at p. 49. (“Approximately 92% of the people surveyed by the Task Force felt that the existing governance system required major change”)

³⁵⁸ 1992 Task Force on Education Governance, Benjamin Cayetano, Chairman, p. 49.

³⁵⁹ Barbara L. Okamoto letter to Task Force, Mar. 16, 1992.

³⁶⁰ Paige E. Lawes’ letter to Task Force, Mar. 16, 1992.

levels of student achievement and satisfaction levels among teachers, parents, and administrators in Edmonton—through decentralization.³⁶¹ Toguchi’s team returned enthusiastic about allocating school funding directly to the schools and putting each principal in control of the school’s academic and financial plans. It could all be done internally, without the need for legislation. Many central administrators would have to return to the classroom, but that would be a small price to pay for student success. Opposition from the unions and within the DOE, however, ultimately proved too powerful.

“[Toguchi’s] plan to reform education in Hawaii aimed right at the heart of the DOE bureaucracy. Dubbed Ke Au Hou, ‘A New Era,’ Toguchi’s creative plan would have reassigned 1,000 school officials and made another 630 change jobs. From his first speech to his last, Toguchi called for decentralizing the DOE. Toguchi battled the Board of Education, the unions for teachers and principals and the whole DOE bureaucracy until 1994, and [then] saying, ‘I’ve given it my all,’ Toguchi resigned.”³⁶²

A series of State Auditor reports then portrayed the system as unwieldy and central administration as incapable of sound financial management. For example: In 1994, the State Auditor encouraged the DOE to track administrative and school-level expenditures as a necessary step in the direction of empowering principals and to give SCBMs a chance to work;³⁶³ in 1995, she found that the DOE lacked management controls and expenditure information necessary to determine the operations costs of specific schools and programs;³⁶⁴ a year later, the Auditor again found that the DOE’s school-level expenditure data was unreliable;³⁶⁵ and then, in 1998, the Auditor found that the DOE was over-representing expenditures at the school level and failing to identify moneys spent at an administrative level on behalf of a school, or on purely administrative functions,³⁶⁶ which had the effect of overstating the amount of money that actually reached the classroom while understating the cost of central administration. These deficiencies, along with the DOE’s refusal to relinquish its “command and control” authority, were preventing implementation of SCBM:

“The Department of Education ... has not given schools sufficient autonomy and flexibility. ... [J]ust four percent of the [school-level] expenditures had no departmental or other agency limitations. The Department of Education has not provided the level of support schools need to assume their new responsibilities.”³⁶⁷

³⁶¹ See e.g., Ted Kolderie, “Mike Strembitsky and site-management in Edmonton,” Dec. 1990 at <http://www.educationevolving.org/pdf/Strembitsky.pdf>; and Elizabeth Steinberger, “Michael Strembitsky on Results-Driven Decision Making,” School Administrator, Nov. 1995, at http://findarticles.com/p/articles/mi_m0JSD/is_10_52/ai_77196865/.

³⁶² Borreca, “Kickin’ around education reform again,” Honolulu Star-Bulletin, Mar. 21, 2004.

³⁶³ *The Feasibility of Applying the Micro-Financial Analysis Model to Expenditures for Public Education in Hawai‘i: What Reaches the Classroom?* Report No. 94-6.

³⁶⁴ *Status Report on Monitoring Fiscal Accountability of the Department of Education: Case Study – Royal Elementary School*, Report No. 95-23.

³⁶⁵ *Fiscal Accountability in the Department of Education: How Accurate Are Textbook Costs?* Report No. 97-1

³⁶⁶ *Fiscal Accountability Audit of the Department of Education: The Public and the Schools Need to Know the True Costs of Education*, Report No. 98-5.

³⁶⁷ 1998 report (98-4).

Also in 1998, Governor Cayetano formed a bipartisan Economic Recovery Task Force. It stressed that the public-education system *had* to improve if Hawaii was serious about having a sound economy, and that the system's governance structure was the obvious place to begin. Like other groups in prior years, this one concluded that the system had to be decentralized:

“The key to increasing the effectiveness of our public school system is to place authority and responsibility for education closer to the school level. The Task Force determined that this could best be accomplished by establishing four appointed County school boards, adopting school-based budgeting, and providing greater independence to principals. ... In short, the Task Force envisions a public school system that is decentralized and accountable.”³⁶⁸

During the 2002 legislative session, the House of Representatives passed a measure calling for local school boards. Two out of three members of the public, including three out of four Neighbor Islanders, supported it.³⁶⁹ Brian Schatz, a Representative who has since become chairman of the state Democratic Party, was one of many supporters: “Having local boards will enable citizens to know who their BOE candidates and board members are to keep in touch with them ... to express the needs of their children.”³⁷⁰ The unions opposed it, however, and that was enough to kill it in the Senate.³⁷¹ Representative Ken Ito, chairman of the House Education Committee and a strong supporter of the measure, called it a form of decentralization that would empower communities. Big Island Representative Helene Hale was more specific:

“I am thoroughly convinced that if we really want to ... improve our educational system, we have to get rid of the tremendous bureaucracy that is situated in Honolulu, and bring our educational system back to the communities.”³⁷²

In a further show of union strength, immediately after the session ended Ito was removed not only from the chairmanship of the Education Committee but also from the committee itself.

The election of Linda Lingle as Governor later that year led many to hope that public-education reform might finally happen. After all, she had run on a platform of “change,” and had described public education as her top priority.³⁷³ In her first State of the State address to the Legislature, she called upon lawmakers to decentralize the system.³⁷⁴ Specifically, Lingle

³⁶⁸ Hawaii's Economic Future: Proposals of the Economic Revitalization Task Force,” Hawaii's Economy, Special Edition (Mar. 1998), p. 16, available at http://Hawaii.gov/dbedt/info/economic/data_reports/Hawaii-econ/he3-98.pdf (last visited Aug. 1, 2009).

³⁶⁹ The People's Pulse, Winter 2003.

³⁷⁰ Gov. News Release, Mar. 6, 2003, at http://Hawaii.gov/gov/news/releases/2003/News_Item.2006-01-19.1512.

³⁷¹ Arakawa, “Bill calls for 15 school boards,” Honolulu Advertiser, Feb. 16, 2002.

³⁷² Press Release from Governor's Office, Mar. 6, 2003.

³⁷³ See, e.g., Dunford, “Lingle refines new legislative proposals,” The Honolulu Star-Bulletin, Oct. 14, 2003, at A5; Arakawa, “Lingle adviser named to education role,” The Honolulu Advertiser, Oct. 10, 2003, at B2 (Lingle said, “Education reform is her No. 1 priority.”)

³⁷⁴ Governor Lingle State of the State address to the Legislature, Jan. 21, 2003.

wanted to remove principals from the union, give them control over the bulk of their own budgets, and hold them accountable for improved student performance.³⁷⁵ Also, she wanted local school boards to provide support and oversight to the principals.³⁷⁶

“The public knows and we should not be afraid to say it – Hawai'i's public school system is broken. ... The time has come to move resources and decision-making away from the DOE's central office in Honolulu and to empower local communities to think and act in their own best interest. ... Just about every study of individual-school effectiveness has stressed the critical role played by the school principal. Hawai'i is the only state in America in which principals belong to a union. It has proven to be disastrous for the children. ... The hiring and evaluating of principals should be done at the local level.”

Opinion polls at the time seemed to support Lingle's assertion that something was “broken,” and that the system needed to be decentralized:

“Hawaii's residents—whether parents of [current students] or not—rate public schools poorly Ratings for neighborhood public schools were only marginally higher than for state schools overall.”³⁷⁷

“Residents clearly favor decentralization including more authority for principals. ... A staggering 67% of those polled favored shifting most decisions from the DOE to principals.”³⁷⁸

Lingle also asked the Legislature to give charter schools greater autonomy and fair funding.³⁷⁹ In doing so, she suggested that charter schools were the quickest way to provide a meaningful choice for parents who could not afford a private school, and she accused the DOE of trying to sabotage the charter schools:

“The current DOE attitude toward charter schools is benign neglect at best and antagonistic at worst. ... Right now, the funding assumes that the value of services provided by the DOE is nearly as much as all the money going into salaries of the teachers and principal, rent, and other costs of operation. This is absurd. My proposal is to give the charter schools the full cost of educating a child and then let the principal of each charter school decide if what the DOE has to offer is worth paying for. Fair funding is just the beginning. Under my plan, charter schools would be free to make their own hiring decisions. The UPW would not have a lock on any jobs, nor would the HGEA or the HSTA. Once hired, teachers,

³⁷⁵ Needs cite

³⁷⁶ Needs cite

³⁷⁷ The People's Pulse, at 1-2 (Summer 2003) (“Pulse”).

³⁷⁸ Pulse, p. 1 (Spring 2003).

³⁷⁹ Needs cite

secretaries and janitors would be free to form or join a union, but that would be their choice.”

Not one of the Governor’s bills even made it out of the House or Senate education committee.³⁸⁰ Disappointed but undeterred, she prepared for the 2004 session by collecting additional information about key issues.³⁸¹ Getting it was usually difficult, and sometimes impossible.³⁸² For example:

“Because senior DOE administrators were saying that parents already could move freely from one public school to another simply by getting a district waiver, DOE officials were asked for the number of parents who had sought a district exemption in recent years, the number of exemptions that had been granted, and the basis on which the decisions were made. The DOE’s response to all three requests was, ‘We don’t have that information.’

“Asked to explain budget allocations to individual schools, DOE officials said simply that they were not able to do so. They had neither a formula nor comprehensive guidelines for doing the allocations, and their accounting system lacked the sophistication needed to allocate spending by individual school (as had been reported a decade earlier in the series of State Auditor reports).

“Asked about per-student expenditures, DOE officials pointed to the \$3,805 per student being given to the charter schools. When pressed for details about how that number had been determined, senior DOE administrators acknowledged that the actual per-student cost was probably closer to \$6,000, the difference being ‘overhead.’ They said it would be impossible to provide a precise number.”³⁸³

When this lack of information was brought to the attention of DOE Superintendent Patricia Hamamoto, she attributed the problem to management and accounting systems dating back to the 1980s, and to a bureaucratic system that she called obsolete.³⁸⁴

At about the same time, the Hawaii Business Roundtable and the Harold K. L. Castle Foundation funded a study lead by Dr. William Ouchi. Although then living in California, Ouchi was not the typical “mainland expert.” The longtime professor of organizational theory at

³⁸⁰ Some blamed this on politics: David Shapiro, “Education reform? Forget it,” *The Honolulu Advertiser*, Oct. 15, 2003 (“The only difference between then and now is the politics – lawmakers now have a Republican governor who wants the reforms.”); see also Borreca, “On Politics: Democrats stumble across new political landscape,” *The Honolulu Star-Bulletin*, July 27, 2003.

³⁸¹ Arakawa, “Lingle adviser named to education role,” *Honolulu Advertiser*, Oct. 10, 2003, at B2.

³⁸² The author of this essay was Lingle’s Senior Policy Adviser during her first year as governor, and then worked exclusively on education reform during the 2004 legislative session. As such he met many times with the Superintendent, BOE members, union officials, and legislators, plus numerous teachers and principals. The following anecdotes are based on his notes.

³⁸³ *Id.*

³⁸⁴ Hamamoto, “The State of Public Education,” address to the Hawai‘i State Legislature, Jan. 28, 2004.

UCLA had been born and raised in Hawaii, and his mother, aunt, and sister had taught in Hawaii's public school system for many years. The master of ceremonies at Ouchi's wedding was Senator Daniel Inouye.

Dr. Ouchi had just completed a National Science Foundation project that studied large school districts in the United States and Canada.³⁸⁵ The data showed that decentralized school systems invariably got better results than did highly centralized ones—not only higher levels of student-achievement as measured by standardized tests, but also greater satisfaction levels among parents, teachers, and principals.

Ouchi stressed the importance of assembling reliable data, explaining that highly centralized school systems in his experience invariably lacked reliable accounting systems.³⁸⁶ He said these basic numbers were particularly important: (1) how much money was being expended each year within the entire education system, (2) how much of that money actually made it to the classroom, (3) how many people worked for the DOE, and (4) how many of those employees were classroom teachers who actually reported to a principal.

Ouchi offered his services, *pro bono*, and suggested the retention of Bruce Cooper, a professor of education finance at Fordham University with a national reputation in school finance. They were assisted by four-person teams from the state Department of Budget & Finance and Department of Accounting & General Services in the data gathering. The DOE/BOE initially resisted but then Superintendent Hamamoto determined that these agencies were legally entitled to the requested information.

Ouchi and Cooper eventually calculated that the all-inclusive per-student education cost in Hawaii was not “about \$6,000,” as the DOE had told Lingle, but exactly \$10,422.³⁸⁷ The per-student cost for operations alone was \$8,473. Furthermore, only 49 cents of each dollar was actually reaching the classroom. Ouchi and Cooper also determined that less than one-third of the DOE's employees were classroom teachers who reported directly to a principal.³⁸⁸

The DOE/BOE immediately questioned the professors' methodology, objectivity, and each of their conclusions.³⁸⁹ The DOE's director of communications also questioned their motives, publicly accusing Ouchi of concocting “phony research” in exchange for “free trips.”³⁹⁰ The

³⁸⁵ See, e.g., William Ouchi, “Making Schools Work: A Revolutionary Plan to Get Your Children the Education They Need,” Simon & Schuster (2003).

³⁸⁶ Hawaii has been notoriously bad in this respect, earning an F grade in one national comparison. See Malia Zimmerman, “Hawaii DOE gets failing grade for fiscal transparency, Hawaii Reporter, Aug. 29, 2013 (“When the state education departments provide incomplete or misleading data, they deprive taxpayers of the ability to make informed decisions about public school funding. At a time when state and local budgets are severely strained, it is crucial that spending decisions reflect sound and informed judgment.”)(“Hawaii DOE has failed to post the most recent two years of per pupil expenditures or its capital expenditures and fails to provide a table or graph to compare changes in per pupil – or capital improvement – spending.”).

³⁸⁷ William Ouchi and Bruce Cooper, “Financial Analysis of Hawai'i Public Schools,” Nov. 23, 2003.

³⁸⁸ The professors found that there were 23,790 fulltime employees and “casual hires” who comprised another 10,000 fulltime-equivalent employees.

³⁸⁹ Needs cite

³⁹⁰ Needs cite

Superintendent declined to comment on that accusation, other than to explain that her communications director had just been “exercising his first-amendment rights.”³⁹¹

The DOE/BOE eventually accepted the professors’ per-student cost numbers as accurate,³⁹² but continued to challenge the estimate that only 49 cents of each dollar spent on operations was actually getting to the classroom. According to the DOE, the correct amount was 51 cents.³⁹³

The two sides also went back and forth over the number of employees and teachers who report to a principal. Definitional issues and growing distrust complicated matters. Eventually both sides agreed that there were 9,119 regular teachers and 1,841 special-education teachers who reported directly to principals rather than to central administration. They continued to disagree, however, on the total number of DOE employees. The DOE wanted to exclude approximately 10,000 “casual hires,” and a much larger number of part-time and seasonal workers, explaining that its tracking system was not able to classify any of those positions by function.

The professors wrote a companion report that sharply criticized the Legislature for meddling in school matters. This brought to mind comments Dean John Dolly had made a decade earlier:

“The government has no business intruding into the classroom—an unfortunately common practice in this state. I have witnessed the legislature debate what subjects should be offered in a high school, and whether certain programs should be mandated. No wonder we have problems in public education in Hawaii, when legislators are telling the schools what they should and shouldn’t be doing.”³⁹⁴

Ouchi and Cooper noted instances of individual principals taking their concerns directly to key legislators, who reportedly then ordered detailed changes to a school’s budget:³⁹⁵

“The current level of micromanagement of the education budget at the State Capitol is unprecedented in our experience. ... This undermines the

³⁹¹ Derrick DePledge, “Schools official won’t be punished,” *The Honolulu Advertiser*, Dec. 9, 2003; Laura Brown, “The Best Case for Reform of the DOE Came from an Act of Desperation on Spokesman’s Part,” *Hawai‘i Reporter*, Dec. 11, 2003, available at <http://www.Hawai‘ireporter.com/story.aspx?38ebf89f-c391-48ed-8450-94536d8fbd9>, last visited 6/16/09.

³⁹² Hawai‘i Department of Education Response to Cooper-Ouchi Financial Report, Legislative Hearing, December 2, 2003 (“data can be used to draw any number of conclusions,” “let’s not confuse fact with bias,” and “nothing in the Cooper/Ouchi Report links governance and student achievement.”).

³⁹³ Hawai‘i Department of Education Response to Cooper-Ouchi Financial Report, Legislative Hearing, December 2, 2003 (“data can be used to draw any number of conclusions,” “let’s not confuse fact with bias,” and “nothing in the Cooper/Ouchi Report links governance and student achievement.”).

See also Pichaske, “Study reaps Hawai‘i’s schools, calls the system top-heavy,” *Honolulu Star-Bulletin*, Sept. 10, 1993, at A1.

³⁹⁴ John P. Dolly, “Public Schools,” *The Price of Paradise*, Ch. 32, p. 214.

³⁹⁵ William Ouchi and Bruce Cooper, “Financial Analysis of Hawai‘i Public Schools,” Nov. 23, 2003, at p. 5.

independence of the Board of Education and the State Superintendent and further centralizes the key decisions about the operation of schools.”

The professors explained that the Legislature’s micromanagement meant that politics rather than sound educational policy was controlling key decisions, and they added that this unprecedented level of involvement was a predictable consequence of Hawaii’s unique governance structure:

“We believe that it is enabled by and exists because of the single statewide school district. Every other state has local school boards that report not directly to elected state leaders but rather to a state Board of Education. The state Board of Education acts as a buffer to protect local school boards from improper political interference from the state capitol. While education and politics must co-exist, they should not be commingled.”³⁹⁶

Ouchi and Cooper also explained the importance of knowing which teachers report to a principal: teachers who report to administrators outside the school may or may not be providing valuable services in the eyes of the school’s principal. When principals are captive consumers of services provided and controlled by others, it is unfair to hold the principals accountable for student achievement. Here’s how the professors explained it:

“Although many of the central staff personnel work each day at school campuses rather than in central office buildings, they nonetheless work under the supervision of central office managers rather than under principals. They are therefore an element of central administrative control. Principals, given control over their budgets, might well choose to deploy those staff salaries in very different uses.”³⁹⁷

Like the State Auditor, Ouchi and Cooper found egregious weaknesses in the DOE’s information systems, including an inability to allocate costs properly.³⁹⁸ The issue at the heart of the matter was not accounting, but accountability:

“The DOE’s practice in reporting expenditures is simply to allocate all expenditures to the school level, whether the function is a school, district, or state function. ... Thus, the information that is given to parents, voters, and the media may be inaccurate or misleading. ... For years people in Hawai’i have been arguing over the amount the Department of Education spends on administrative expenses. The DOE has repeatedly stated that its administrative expenditures are less than 3% of total DOE expenditures. ... The DOE was unable to demonstrate how this 3% could be arrived at using generally accepted reporting standards.”

³⁹⁶ *Id.*, p. 7.

³⁹⁷ *Id.*

³⁹⁸ *Id.*, p. 3.

In another example of numbers that could not be substantiated, the DOE told the professors that Hawaii's private schools spent far more per student than did the public schools. The professors found that this was true only with respect to a handful of high-profile private schools—Punahou, Iolani, Seabury Hall, and Hawaii Preparatory Academy—but not for the vast majority of the private schools.

“[W]e found that among the 114 private schools in Hawai'i, the median tuition in 2002-03 was \$4,675, less than half of what the public schools spend (this study excluded the Kamehameha Schools, due to their very low tuition). ... Most of these schools have negligible endowments.”³⁹⁹

The professors speculated that the cost of educating children in Hawaii's private schools is comparatively low because of their streamlined governance structures: “Private schools do not have to carry the expense of the large administrative bureaucracies of the DOE, and their very decentralized nature enables them to achieve cost savings in many other ways.”⁴⁰⁰ The DOE had simply grown too big:

“Study after study has shown that as organizations grow beyond a certain point, they inevitably spend a larger and larger percentage of their total resources on administration. ... [T]he DOE [apparently] reached that point long ago. Even ignoring casual hires, there has been a large increase in the percentage of employees who are not teaching. ... This is exactly what one would expect to find in a large, highly centralized system.”⁴⁰¹

Armed with previously unavailable data, and assisted by Ouchi and Cooper and Strembitsky (the fellow who had turned around the Edmonton school system), a blue-ribbon panel of community leaders sought public input into the issues, and then worked with their expert advisers to formulate a specific plan for Hawaii's public schools. The resulting package was patterned after Strembitsky's work in Edmonton: it stressed the need to decentralize by giving principals control over at least 90 percent of their respective school's budget, and putting the principals on performance contracts keyed to improvement in student achievement levels. But that was just the beginning. To increase transparency and fairness, the plan included weighted student formula (WSF), for allocating funds to the individual schools. To increase coherence, the Legislature would be required to provide lump-sum budgets to the DOE/BOE and the Governor could restrict spending, if at all, only on a lump-sum basis (fiscal autonomy similar to that enjoyed by the University of Hawaii). And to promote innovation and choice, the cap on the number of charter schools would be doubled, and the funding would finally be fair, including money for facilities. There were numerous other aspects to the blue-ribbon panel's plan, but by far the most politically sensitive of them was the proposal that the BOE limit itself to developing academic standards and holding accountable seven new local school boards.⁴⁰²

³⁹⁹ *Id.*

⁴⁰⁰ It should be remembered, however, that public schools are legally required to accept all comers, including special-needs students who, on average, cost more than \$30,000 per year to educate. DOE critics counter that, however, by pointing out the private school ASSETS serves the same student population at a significantly lower per-student cost.

⁴⁰¹ *Id.*

⁴⁰² The package also provided for greater support for home-schooled children, and a transparent, liberal policy of

Some panel members liked the idea of local school boards because they valued the idea of local control and “home rule”—that is, they saw them as worthy ends. One such panel member observed that local boards would be especially good for the neighbor islands:

“Neighbor islanders have strong resentments about the way Honolulu dominates and directs affairs across the islands. To say that the people on what we of Oahu call ‘the outer islands’ want to run their own schools is to put it mildly. Given that they are taxpayers in a democratic state, and that in the other 49 states taxpayers exercise local control of their schools, it would appear that people here also should be entitled to control their own schools.”⁴⁰³

Other panel members viewed local school boards as mere means to an end—that is, they were the only practical way to decentralize without having to rely upon the DOE for implementation:

“Even though public opinion and educational research have supported decentralization for years, the DOE has managed to maintain a tight grip on virtually all the money, and to deny the schools a say in critically important decisions. . . . Any effort to decentralize that must rely upon those who will lose authority, is bound to fail. . . . Given the history of the past 30 years, it would be unwise to expect the DOE to restructure itself, even if the Legislature were to mandate that it do so.”⁴⁰⁴

The entire panel recognized that it would be theoretically possible to decentralize Hawaii’s school system simply by giving the principals control over virtually all of the money. But implementing such an approach would not be easy, fast, or foolproof. Thousands of little decisions would determine its success or failure. In past years, the DOE demonstrated an ability to make any new idea fail (SCBMs and charter schools are recent examples). Following Lingle’s 2003 State of the State address in which she said that the system was “broken,” large signs had appeared on the walls of the DOE/BOE’s main office building proclaiming, “We are NOT broken.” The people who cheered at the sight of those signs are the same ones who would be making the thousands of little decisions—unless local school boards become part of the equation.

“There is a long history of the DOE and BOE promising a decentralization of the system, but they have never done it.”⁴⁰⁵

“Without local boards the DOE/BOE will find a way to sabotage the effort. This is, after all, what happened to SCBMs and the charter schools.”⁴⁰⁶

district exemptions that would permit parents to choose where to send their children.

⁴⁰³ Mary Ann Raywid, “Let each island govern its own education affairs,” Honolulu Star-Bulletin, Dec. 4, 2003.

⁴⁰⁴ Citizens Achieving Reform in Education (CARE), Report to the Governor, Dec. 15, 2003.

⁴⁰⁵ *Id.*

⁴⁰⁶ Interview with Mary Ann Raywid (notes on file with the author); See also, Uyehara, “Hawai‘i’s Educational System Must Be Restructured So It Can Improve,” Hawai‘i Reporter, Sept. 26, 2003 (“Schools cannot be restructured until the BOE is dismantled. . . . It really is time to redo the entire

The education establishment—particularly union officials and the DOE/BOE—were sharply critical of these proposals, with one notable exception: they liked the weighted student formula (WSF). For WSF to work properly, however, administrators need sophisticated accounting systems and a culture of accountability, neither of which were currently in place, according to Ouchi and Cooper:

“WSF requires that each principal receive reliable and stable financial forecasts and budget figures. . . . We cannot see how WSF could be successfully implemented by the present DOE central office staff organization. The DOE staff presented us with significantly different cost figures every few days during our inquiry. If they did this within the framework of WSF, the result would be chaos in the schools.”⁴⁰⁷

Polls indicated widespread public support for the panel’s proposals. When asked, “Would you favor or oppose making school principals accountable for the progress of their students?” 80% were in favor, 14% were opposed, and 6% were unsure. When asked, “Would you favor or oppose allowing schools to control the spending of at least ninety cents per dollar of money spent on public education?” 75% were in favor, 13% were opposed, and 12% were unsure. Finally, when asked, “Would you favor or oppose giving Hawaii residents the right to vote on whether to create locally elected school boards?” 74% were in favor, 17% were opposed, and 9% were unsure.⁴⁰⁸

Union officials accused the panel members and their expert advisers of bashing Hawaii’s students and teachers, and of stirring up the public needlessly. They said the system had a bad reputation only because people were always complaining about it. *The Honolulu Advertiser* seemed to join hands with the education establishment, asserting in an editorial “many states have looked admiringly at Hawaii’s statewide, centralized, standardized system.”⁴⁰⁹ The *Advertiser* also portrayed in a negative way the public conversation that the blue-ribbon panel’s decentralization plan had started: “It’s hard to open a car door around here without banging into someone complaining about our public schools.”⁴¹⁰

The real problem, according to the *Advertiser* and members of the education establishment, was the public’s failure to support the tax increases needed to fund education properly. They also ridiculed the notion that local school boards would result in higher levels of student achievement: Instead of saving money, local boards would “swell the very bureaucracy the panel wants to eliminate.”⁴¹¹

In a meeting with the *Advertiser*’s editorial board, it quickly was apparent that its members were viewing local school boards as the only major piece of the proposed package of changes.

system.”).

⁴⁰⁷ Ouchi & Cooper, *supra* note 214.

⁴⁰⁸ The Tarrance Group, Jan. 29 and Feb. 1-2, 2004; 600 registered “likely” Voters; 4.1% margin of error.

⁴⁰⁹ “School reform is not change for change sake,” *The Honolulu Advertiser*, Oct. 6, 2003, at A6.

⁴¹⁰ Editorial, *Honolulu Advertiser*, Oct. 16, 2003, at A16.

⁴¹¹ HSTA President Roger Takabayashi, as quoted at “Gov’s strategy just a starting point for ed reform,” *The Honolulu Star-Bulletin*, Dec. 17, 2003; see also commentaries by Hara and Cochran.

The blue-ribbon panel’s advisers explained that the core issue was actually accountability, which required a shift of authority from the DOE to the schools. They added, though, that it would be irresponsible to put huge sums of money into the hands of individual principals without also providing support and oversight at a level that was neither too close (where conflict of interests and micromanagement could be problems) nor too far (such as at the state level). They also explained that new local boards were the only reliable way to break up the DOE, and that this was necessary because of the DOE history of sabotaging reform measures such as SCBM and charter schools. The advisers explained that the seven new school boards would hire from the existing DOE those individual administrators who would be needed to provide support and oversight to the schools; and that those new boards would form a *hui* to provide the relatively few administrative services that could best be provided on a system-wide basis. When all that hiring was over, the remaining thousand or so DOE administrators would be given the opportunity to return to the classroom. Some of those administrators would not like either option, and that would be unfortunate, but the important issue was the best interests of the children, and not the happiness of central administrators.⁴¹²

Whether the *Advertiser* board did not understand any of this, or simply did not believe it, their editorial voice continued to portray local school boards as the central idea—as an end in itself rather than a means to an end, or mere ingredient in a decentralization recipe. After portraying local school boards as a self-contained plan to solve all the system’s ills, they expressed incredulity that expanding the number of entities involved with education would improve accountability: “How would adding seven or more locally elected school boards lessen the diffusion of responsibility?”⁴¹³

The battle during the 2004 legislative session was highly charged, but the end was never in doubt: The Legislature was determined not to enact the blue-ribbon panel’s proposals ... the Governor was determined not to sign whatever “fake” reform the Legislature would pass in lieu of the panel’s proposals for “real” reform ... and the Legislature was certain to override the Governor’s veto. That’s what the experts predicted, and that’s what happened. The only complication was that Lingle exercised what she called a “soft veto,” which included the offer of a compromise:

“The bill [produced by the Legislature] mainly protects the status quo, and in one case it makes matters much worse by increasing bureaucracy and reducing accountability. ... I am exercising what I call a ‘soft veto.’ ... Because we still have one week left in the regular session of 2004, the executive and legislative branches have time to come together to craft an education bill that will bring about meaningful education reform. ... These changes are:

“Give principals control over 70 percent of their operating budgets initially, but phase-in a plan that would allow them eventually to control 90 percent of funds. At first glance it may

⁴¹² From the author’s notes and interviews of Laura Thielen, Michael Strembitsky, William Ouchi, Bruce Cooper, and Mary Anne Raywid.

⁴¹³ “Education panel paints only part of picture,” *The Honolulu Advertiser*, Dec. 17, 2003.

not appear there is much difference between giving principals 70 percent versus 90 percent of the money. But it will mean a world of difference in the classroom. That is because at 70 percent most of the spending is already predetermined since it goes to salaries and related items over which the principal has little or no control. It is only when principals are given authority for 90 percent or more of the funds at their schools that they truly gain the financial flexibility they need to make meaningful improvements.

“Empower principals, set standard for their performance, and hold them accountable. In business, in education, and in every social organization, leadership makes the difference. Individual teachers also make a difference. But it is the principals who can inspire, motivate, and lead their schools by example.

“Give charter schools their fair share of funding, for facilities as well as for operations, so they can provide instruction that is culturally appropriate for their communities. Charter schools have demonstrated that they can produce successful, self-confident students, even in the face of tremendous obstacles created by the Department of Education. Such schools are especially important for Hawaiian students, who suffer greatly under the Department of Education’s one-size-fits-all system.

“Instead of launching the ‘weighted student formula’ in the 2006-07 school year, start this sensible funding plan ... earlier.

“Make the school community councils advisory in nature. That way, councils can offer their recommendations to principals without complicating the decision-making process or confusing who the public should hold accountable.

“Education reform is not about us – it is about the children. ... If the Legislature makes the ‘five easy fixes’ listed above, we will have a much better bill that will really advance the cause of student achievement through education reform. ... I am recommending these five revisions on behalf of people all across our State who have watched many previous attempts to fix our schools and who should not settle for less than real education reform this time. While far from perfect, this modified legislation would move us ahead.”⁴¹⁴

The Legislature chose not to make any of these “five easy changes.” The new law, the grandly named Reinventing Education Act of 2004 (a.k.a. Act 51), called for more math

⁴¹⁴ Statement of Objections to Senate Bill No. 3238, Apr. 29, 2004; available at <http://www.capitol.Hawaii.gov/session2004/gms/GM519.pdf>, (last visited June 9, 2009).

textbooks, smaller class sizes in the lower grades, a two-tiered kindergarten, centralization of the school calendar, student-activities coordinators at every school, training and rewards for teachers and principals, weighted student formula (WSF) to allocate money to the individual schools, replacement of School Community-Based Management Councils (SCBMs) with School Community Councils (SCCs), and acquisition of new information technology, among miscellaneous other items.

Lingle criticized Act 51 as “business as usual”—an assortment of feel-good provisions that did not address the core problem, which was the existing governance structure. She pointed out that only one of the changes had actually required legislation, which meant that Act 51 was another example of the Legislature trying to do the DOE/BOE’s job. She was not the only political leader to view Act 51 as “fake reform.” Former Congressman Ed Case said it clearly and powerfully:

“Act 51 was an attempt to head off public demand for education reform by doing the minimum necessary to appear to be delivering reform without actually doing so. That was compounded through the implementation and administration of the law by a system that didn’t believe in it to start with.”⁴¹⁵

Update on Act 51

As of this date, the DOE has not carried out the 2004 legislative mandate that public school principals be put on a performance contract.⁴¹⁶ After nine year the DOE has not made significant strides toward implementing the mandate. It is not clear whether the DOE is trying to sabotage the performance-contract initiative, or that its collective hands are tied by existing union contracts. The principals union says it would be illegal for the DOE to force any individual principal to sign a performance contract, because that it is a matter subject to collective bargaining. For whatever reason, the DOE has not pushed the issue.

Performance contracts are more than just nice things to have. They are critically important if we are serious about finally doing something to raise the levels of student achievement. As noted above, “How do you hold accountable a principal whose compensation, benefits, working conditions, and very job cannot be based on student achievement or improvement at that principal’s school?”

Also in 2009, the DOE continues to rely on a “horse and buggy” information system, despite publicly acknowledging that it cannot support even existing needs. Echoing the State Auditor and Professors Ouchi and Cooper, the Hawaii Business Roundtable has noted that good decisions start with reliable information, something that the DOE often lacks:

⁴¹⁵ Interview with Ed Case.

⁴¹⁶ David Shapiro, *It’s About Time Principals Made Good on Contract IOU*, Honolulu Star-Advertiser (Feb 8, 2012), available at http://www.staradvertiser.com/newspremium/20120208__Its_about_time_principals_made_good_on_contract_IOU.html?id=138913404

“The DOE needs good information systems to manage its resources, including financial, technical and human resources. The hoped for outcome is that the DOE will be able to provide the public, legislature and the department’s managers and leaders, with the data to make good decisions based on timely information, on allocation and utilization of resources, and report on progress towards its goals.”⁴¹⁷

The State Auditor also has identified “systemic shortcomings” in implementing Act 51, and noted that the DOE’s financial systems are “inadequate to provide principals with information needed to effectively manage their multi-million dollar budgets.” The report’s bottom line: “Unless the department can provide competent guidance, it is unrealistic to expect schools to develop effective strategic plans and related performance-based improvement processes.”⁴¹⁸

The DOE acknowledges an inability to conduct regular financial audits of the schools,⁴¹⁹ and its chief financial officer expresses frustration over the DOE’s antiquated systems.

“[W]e have great people, but not so good systems. ... I cannot tell you how frustrating it is that I cannot give you the information you requested ... and even more frustrating that requests that [Superintendent Hamamoto] sometimes makes for information cannot be fulfilled either.”⁴²⁰

One knowledgeable observer believes that the DOE is not trying to keep the public in the dark. According to him, “it’s much worse than that.” The truth, according to him, is that they have only a vague notion of what it costs to educate a student in a particular school, or how much of the operating budget actually gets to the classroom as opposed to being consumed by the bureaucracy.” In other words, the DOE itself is in the dark. It’s not a matter of bad people intending to do a bad job; instead, it’s the predictable consequences of a governance system that lacks accountability.

In 2009, the State Auditor issued a scathing report on the DOE’s procurement practices involving hundreds of millions in facilities money. She decried the underlying “culture” that allowed those practices not just to occur but to continue unabated for years:

“Our audit revealed a lack of proper leadership and controls over the department’s procurement process and a resulting indifference toward procurement compliance ... The department lacks corrective or disciplinary procedures for procurement violations, and the Board of Education has not [provided] oversight of procurement. The result is much confusion among employees and dissent within the department over proper procurement policies and procedures. ... The office’s many large-dollar capital projects

⁴¹⁷ Testimony Before Senate Committee on Economic Development and Taxation, Feb. 12, 2008, SB 3251, SD1).

⁴¹⁸ Management Audit of Kailua High School, Report No. 06-06, Sept. 2006; see also, Gima, “Kailua High audit raises questions about reform,” The Honolulu Star-Bulletin, Sept. 30, 2006.

⁴¹⁹ *Id.*

⁴²⁰ Excerpts from email sent from James Brese to Laura Brown on May 7, 2008.

were commonly procured with minimal planning and oversight. ... The department has not maintained effective internal control [and] lacks required monitoring controls over its internal controls.”⁴²¹

“The second phase of our audit revealed an organizational culture of disregard for procurement rules We encountered numerous instances of department personnel manipulating the professional services selection process and awarding contracts to predetermined consultants. ... We discovered several other alarming practices ... that appeared to be fraudulent and unethical.”⁴²²

In past years, the DOE periodically claimed to lack the money needed for soap, paper towels, and toilet paper, not to mention textbooks that are not obsolete.⁴²³ And now the system’s chief financial officer and other senior members of the DOE’s leadership team admit that they lack basic managerial information about how \$2.7 billion is spent. This brings to mind Albert Einstein’s definition of insanity: “doing the same thing over and over again and expecting different results.”

Changing the status quo will necessarily involve a shift of power. The parties who currently wield that power—primarily union leaders and elected officials who enjoy union support—are not going to give up that power simply because it’s the “right thing to do.” As Governor Cayetano has said, “The people with power will not give it up unless they get something in return—there will have to be a negotiation of some kind.”⁴²⁴

If you are troubled by what you have read in this essay, start talking about it with others. Contact elected officials, including state representatives and senators, BOE members, and anyone else who sooner or later has to face the voters, and let them all know what it is that troubles you. Ask them why so much in the existing system is based on the concerns of the adults rather than the needs of the children. Ask them exactly what they are doing to make the system student-centered rather than system-centered. Show them the data and respectfully demand to know why our children are not faring better.

Don’t kid yourself. Change will not be easy. As Walter Heen once said, “Educational centralization is a mountain that defies Sisyphus.”⁴²⁵ Hawaii’s highly centralized system has concentrated enormous amounts of power in the hands of a relative few, and they are determined

⁴²¹ Procurement Audit of the Department of Education: Part 1, Report No. 09-03 (Feb. 2009).

⁴²² Procurement Audit of the Department of Education: Part 2, Report No. 09-04 (Feb. 2009).

⁴²³ See, e.g., Essoyan, “Schools Under Stress: Still not enough textbooks, and too many that are obsolete,” *Honolulu Star-Bulletin*, Jan. 27, 2003 (“Many schools report not enough toilet paper and other supplies to keep bathrooms stocked.”); DePledge, “School restrooms ‘pathetic,’” *Honolulu Advertiser*, June 7, 2004 (“There are no locks on stall doors. Light fixtures are broken. There is often no soap, paper towels or toilet paper.”); *See also*, “Folwell Dunbar, “Soft Measures,” *Miller-McCune*, Vol. 2, No. 5, at 31 (“Whenever I evaluate a school, my first stop is the boys’ bathroom because, without an un-flushed urinal of doubt, it is every school’s least common denominator.”).

⁴²⁴ Interview of Governor Benjamin Cayetano by Randall Roth, Aug. 14, 2009.

⁴²⁵ Walter Heen is a trustee of the Office of Hawai‘i an Affairs who previously has served as chairman of the Democratic Party, judge of the Intermediate Court of Appeals, U.S. attorney, state representative, and city councilman, among other key positions.

to keep it. They have demonstrated time and again an awesome ability to prevent meaningful reform. That will begin to change only when instead of saying “shame on them,” we start saying “shame on us.”

It’s time to say “no more,” and to mean it.