

Public Education in Hawaii Past, Present & Future¹

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Public education in Hawaii officially began in 1840 when King Kamehameha III proclaimed a new constitution, and a newly formed legislature authorized schools for all children and made attendance mandatory through age fourteen.³ Several historically significant private schools also formed around that time: The King approved a school for the children of Alii in 1838;⁴ Protestant missionaries formed a school for their children in 1841;⁵ and Catholic priests

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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"); Lawrence H. Fuchs, Hawaii Pono: A Social History, Harcourt Brace Jovanovich (1984), p. 263 ("In 1840, the King's haole advisers passed the first public-school laws, imposing compulsory attendance through the age of fourteen"); Maenette K. P. Benham and Ronald H. Heck, Culture and Educational Policy in Hawai'i, 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, Fuchs, pp. 263-264; 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](#); See also [Punahou History](#).

formed the first of their schools in 1846.⁶ Educational historians would later describe this period as the beginning of “a two-class system of education.”⁷

Protestant missionaries saw mandatory education as an important step toward Christianizing the native population,⁸ and at that time there was “little observable difference between the [Protestant] missionary and government affairs.”⁹ Although the competition for souls soon became fierce between the Protestant missionary and the Catholics, 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, however, and 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 oversaw public education in the early days, but that function passed to six appointed commissioners and a school superintendent in 1855.¹² In 1964, five years after statehood, a constitutional amendment replaced the appointed board (then called the Board of Education) with an elected one.¹³ But then in 2010 the voters changed course again, this time reverting 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

⁶ [Saint Louis School](#) has always been a school for boys, but there are now 25 Catholic elementary and middle schools, and 7 Catholic high schools, the overwhelming majority of which are coeducational. See [Catholic Schools in Hawaii](#).

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 School](#), was established by Episcopalians in 1863. As of 2015 there were 118 private schools in Hawaii, according to the [Hawaii Association of Independent Schools](#); another group put the number at 147, see [Private School Review list](#).

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 Fuchs, p. 9, see also p. 264 (virtually all the public-school students were Hawaiian or part-Hawaiian for the first several decades); see also Stueber, p. 44.

¹⁰ Fuchs, pp. 263-264; 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 *Ibid.*, pp. 25 and 42.

¹² Reorganization Act of 1855.

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 Fuchs, p. 285 (“more centralized than any school system in America”); Dotts & Sikkema, p. 42 (“It is an extreme form of centralization that is not typical of other public school systems in the United States.”).

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 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 properly. 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.

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 *Ibid.*, p. 63.

²² *Ibid.*, 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 *Ibid.*, p. 105

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 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

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 Ibid, p. 56.

²⁹ Ibid, p. 101.

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

³¹ Ibid, p. 61.

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 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

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.

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 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

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.

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.

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

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 led by a group of principals from rural Oahu,⁵⁶ another by principals and teachers on

⁴⁷ Dotts & Sikkema, p. 123.

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

⁴⁹ Dotts & Sikkema, p. 122-132

⁵⁰ Ibid, 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 & Hayden, *Hawaiian Schools*, Preface xi, as cited in Dotts & Sikkema, p. 140.

⁵³ Draper & Hayden, 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.

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

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

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.*

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 *Ibid.*, p. 162.

⁶³ *Ibid.*, p. 162.

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

⁶⁵ *Ibid.*, p. 10.

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.

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 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

⁶⁹ Long *supra* note 3.

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

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.

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

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

⁷⁹ *Id.*

⁸⁰ *Id.*

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.

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:

“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

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

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.*

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-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:

¹⁰¹ Long, *supra* note 3.

¹⁰² *supra* note 16.

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 Hawai‘i 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, Hawai‘i studies, ROTC, school lunches, and athletics. Currently there are more than 300 such categories.

“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

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

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

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.

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

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:

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

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.

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 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

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

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->

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 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

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[Needs a lot of work here; content and presentation.]

An appointed school board is a big deal: Prior to 2011, it was impossible to hold any elected politician or political body accountable for the quality of public education in Hawaii. The elected Board of Education appeared to be in charge, but the Legislature and the governor each wielded comparable power. Specifically, the Legislature had then (as it does now) not just the power to determine the level of appropriated funds, but the added power to limit how some portion of the appropriated funds could be spent (i.e., categorical spending, sometimes known as line-item budgeting or earmarking); then the Governor did not just restricted spending occasionally, but

[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; 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.

selectively—that is, by line item or category, rather than on a lump-sum basis that would allow the BOE or DOE to choose where to make any necessary cuts.

There were three equally powerful and strong-willed political bodies, each with one arm on the steering wheel, which made it impossible for the public to hold any one of them accountable for a bad ride. As a former Superintendent once said, “When everyone is in control, no one is in control.”

The Burns task force pointed out 40 years ago that the DOE/BOE that it also made it difficult, if not impossible, for the public to hold anyone accountable:

“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.”

Three strong-willed political offices were simultaneously trying to control a state Department of Education that provides tens of thousands of jobs and currently spends more than \$2 billion annually. Each of the three—the school board, the Legislature and the governor—had enough power to frustrate the other two, but not enough to control anything.

Since 2010, the governor has had the power that governors have always had, plus the power to appoint all nine members of the state's only school board. The Legislature continues to wield considerable power by controlling the level of appropriated funds, but enough power now resides in the governor to make accountability possible. Unfortunately, under former Gov. Neil Abercrombie's appointees and the superintendent they oversaw, the DOE became more centralized, more top-down, and more reliant on one-size-fits-all dictates to school-level personnel.

[**2 The BOE unsuccessfully sued the Waihee administration in the 1980s, arguing that governor-imposed spending restrictions “destroyed or limited” the DOE's ability to operate the schools effectively. Board of Education vs. Waihee, 70 Haw. 253, 267-268 (1989) (The Supreme Court saw “no reason to believe the Governor's authority ... does not include discretion to restructure ... priorities.”) 3 CORE Report, p. A-24**]

In the attempt to implement federal requirements agreed to as a condition of receiving Race to the Top funds, schools were systematically stripped of their ability to exercise local decision-making by DOE leadership who mandated the instructional and assessment processes. Morale at the school level plummeted, and student performance stagnated.

In his first State of the State address in January, Gov. David Ige promised to appoint school board members "who embrace school empowerment of our principals and teachers as the key to ensure student success," and added that instead of issuing mandates from the state office, his appointees will focus on "empowering schools and delivering resources to the school level."

**[Needs lots of work.]

Like Abercrombie had done four years earlier, David Ige presented himself as a critic of the status quo in public education, and said he wanted to move more money and decision-making authority to the schools. Rather than decentralization, he talked about "empowering schools," which came to be viewed as basically the opposite of what had happened to the DOE during Abercrombie's term as governor. Here's an example of how Ige framed the issue:

"Improving public education is one of my top priorities. I will reform the public education system to empower individual schools so that teachers and school principals make the decisions on curriculum and instruction, educational programs, and expenditure of school funds. Those closest to the students understand best how their students should be educated. The Board of Education, which is appointed by the Governor, has failed to provide the leadership that empowers individual schools. As a result, student performance does not attain maximum potential."

Ige described the current system as a "compliance-driven bureaucracy that stifles creativity and innovation," and his campaign's published Action Plan was unusually specific about ways in which he would implement school empowerment:¹³²

"The greatest proportion of funding for education should be spent at the school level in order to maximize the effectiveness of our education dollars. I will work to increase weighted student formula spending at the school level to 75% of our education funding, from the current 58% level ... reform our 'top-down' bureaucracy so that the system supports our schools, rather than the other way around ... increase funding that supports school-initiated, innovative approaches to education ... appoint individuals to the Board of Education who have a stake in the system's success, including those with children in public schools ... [and] create a system that provides financial incentives for effective principals to remain at their schools instead of seeking promotions to larger schools or to the central office for higher pay."

¹³² David Ige's Action Plan: Engineering Hawaii's Future, available at <http://www.slideshare.net/civilbeat/sen-davids-iges-plan>. Ige's campaign website at the time contained additional information about his thoughts about public education in Hawaii. For example, here's his answer to the question of whether he was satisfied with the way the public education system was being run: "Improving public education is one of my top priorities. I believe that we must empower schools to enable those closest to the students to make decisions on curriculum, programs, and spending. Our "top-down" bureaucracy should be reorganized so that the system supports our schools, rather than the other way around. To move from a compliance-driven bureaucracy, as governor I will increase funds and opportunities to support school-initiated, innovative approaches to education."

Many people thought it would be difficult for Ige to wrest the Democratic Party's nomination away from Abercrombie the incumbent, yet Ige won in a landslide.¹³³ He then won equally impressively in the general election.¹³⁴

Unlike Abercrombie, Ige did not stop talking about the need for education reform after becoming governor. In his first State of the State Address, Ige promised to appoint school board members "who embrace school empowerment of our principals and teachers as the key to ensure student success," and added that instead of issuing mandates from the state office, his appointees will focus on "empowering schools and delivering resources to the school level."¹³⁵ He added this in a private gathering:

"I know that we can have the best public school system in the country if we are committed to making that happen. It's about getting leaders to step up. It's about how we support them. It's about how can we help the teacher in the classroom because that's where the learning occurs. And the thing that strikes me is that the challenges I see in the system today were the same challenges I saw back in the 80s and 90s. It really is about empowerment. It's about finding the best leaders that we can and supporting them like crazy in the school because one size doesn't fit all. In fact, I believe every school is different and every school needs to be responsive to the needs of the community.... No Child Left Behind was everything I believed wouldn't work. It was all about centralization, taking control of curriculum, telling people about what they should be doing, instead of empowering. It was everything I believed would lead us in the wrong direction."

This prompted many to expect major reform relatively soon.¹³⁶

"Since taking office in 2014, Gov. David Ige has often cited his belief that Hawaii public schools would thrive under 'empowered' leaders who are given the resources and flexibility to decide what's best for their students. Now, he says, it's time for him to walk the talk. 'I truly believe that the public education system in Hawaii can be the best in the country. I know it's not all about money, although resources are an important part of that. But it really is about empowering schools and giving the authority and the resources to those closest to the children to make the best decisions,' Ige said in a recent interview in his office at the state Capitol."¹³⁷

¹³³ Chad Blair, Hawaii Governor: Ige Wins it Big! Civil Beat, Aug. 9, 2014, at <http://www.civilbeat.org/2014/08/hawaii-governor-ige-leads-abercrombie/>.

¹³⁴ Chad Blair, Hawaii Governor: Ige Defeats Aiona in Landslide Vote, Civil Beat, Nov. 4, 2014, at <http://www.civilbeat.org/2014/11/hawaii-governor-ige-ahead-of-aiona/>.

¹³⁵ Governor David Ige Delivers State of the State, posted on Jan. 26, 2015, at <http://governor.hawaii.gov/featured/governor-david-ige-delivers-state-of-the-state/>.

¹³⁶ See, e.g., Galera, Mayor & Roth, A bright future for public education, Honolulu Star-Advertiser, Nov. 15, 2015, at <http://www.staradvertiser.com/2015/11/15/editorial/a-bright-future-for-public-education-2/>.

¹³⁷ Nanea Kalani, A state task group is not limiting itself to the scope of a federal law, Honolulu Star-Advertiser, July 8, 2016, at <http://www.staradvertiser.com/2016/07/08/hawaii-news/state-task-group-is-not-limiting-itself-to-the-scope-of-a-federal-education-law/>.

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.¹³⁸ 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.¹³⁹ The percentage of school-age children in Hawaii's private schools has stayed between 15% and 16% since statehood.¹⁴⁰ 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%).¹⁴¹ Eleven states report a higher percentage of students in private schools.¹⁴²

[*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%).¹⁴³]

The number and percentage of school-age children in Hawaii who currently are being home-schooled appears to be rising.¹⁴⁴ 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.¹⁴⁵

Hawaii's public school system is the nation's 10th largest.¹⁴⁶ 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 768.¹⁴⁷

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

¹³⁸ 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.

¹³⁹ Dept. of Education, 2015 Superintendent's 25th Annual Report, available at http://arch.k12.hi.us/PDFs/state/superintendent_report/2015/2015SuptRptFinal.pdf.

¹⁴⁰ 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>.

¹⁴¹ 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-us/375993/>.

¹⁴² This came from Kwak census report which isn't available now; I need to verify the conclusion and update it.

¹⁴³ 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/>.]

¹⁴⁴ Kwak, *supra* note 50.*

¹⁴⁵ *Need to keep bugging the DOE for the data and answers to my many questions about homeschooling in Hawaii.

¹⁴⁶ 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.

¹⁴⁷ [*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).

1959).¹⁴⁸ The drop off in this form of parental involvement is disconcerting, particularly because the level of parental involvement has been increasing elsewhere.¹⁴⁹ 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.”¹⁵⁰ [*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 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).¹⁵¹ 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.¹⁵² 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.¹⁵³ 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-

¹⁴⁸ *Need to update number and cite source; originally cited Sally Kwak’s paper; need to research this more.*

¹⁴⁹ 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.

¹⁵⁰ Interview with former PSTA officer and former member of the Board of Education Paul Vierling.

¹⁵¹ Laura Castner, Karen Cunyngnam & 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>

¹⁵² U.S. Dept. of Education, *Digest of Education Statistics* 87, June 2012, available at

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

¹⁵³ *Defined in 2015 Superintendent’s Report as “students whose families meet the income qualification for the federal free/reduced-cost lunch program.”

school enrollment, which is less than the national average of 9.3 percent.¹⁵⁴ 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%).¹⁵⁵ 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 2010.¹⁵⁶

The 2016 Quality Counts Report from *Education Week*¹⁵⁷ ranks Hawaii slightly above average on its “chance for success index” (78.9 versus the national average of 77.8).¹⁵⁸ That is, Hawaii’s demographics are such that one might reasonably expect our statewide student performance scores to be at or slightly above the national average.¹⁵⁹ Yet Hawaii scored below average for student achievement (69.0 versus the national average of 71.0) and earned an overall grade of D+.¹⁶⁰ 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.¹⁶¹ [*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?*

¹⁵⁴ 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.

¹⁵⁵ Ibid.

¹⁵⁶ 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>.

¹⁵⁷ Quality Counts 2016, Education Week, available at <http://www.edweek.org/ew/qc/2016/2016-state-report-cards-map.html?intc=EW-QC16-TOC>.

¹⁵⁸ 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).

¹⁵⁹ 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>.

¹⁶⁰ Ibid.

¹⁶¹ 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.

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 children¹⁶² and have suggested that they would learn better in a culture-appropriate setting.¹⁶³ A study published in 2003 and funded by Kamehameha Schools described Native Hawaiian children as having been "left behind in our state public school system:"¹⁶⁴ [*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."¹⁶⁵

¹⁶² As used in this essay, Hawaiians are those individuals who can trace an ancestor back to the arrival of Captain James Cook in 1778.

¹⁶³ 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 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/>.

¹⁶⁴ "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.

¹⁶⁵ *Id.*, cover page.

Currently, 28% of Hawaii’s public school students are Native Hawaiian, making them the largest ethnic group.¹⁶⁶ In no state are indigenous students the largest ethnic group in the public schools.¹⁶⁷ 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.¹⁶⁸ The DOE and the University of Hawaii have set institutional goals to address the disparities and to improve academic achievement.¹⁶⁹

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 needs of students.”¹⁷⁰ 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.¹⁷¹ 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.¹⁷² 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.¹⁷³

In 2012-13, there were 286 regular DOE schools and of those, 32 were charter schools.¹⁷⁴ 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.¹⁷⁵ “[I]n 50% of the State’s charter schools, and 19% of HIDOE-managed

¹⁶⁶ 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>.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ 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.

¹⁷¹ Auditor’s Report No. 02-03, Feb. 2002.

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¹⁷⁴ State of Hawaii, Dept. of Education, *Superintendents Report 9*, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

¹⁷⁵ *

schools, at least half the students are Native Hawaiian.”¹⁷⁶ Approximately 88% of the students in Hawaiian culture-based charter schools are Native Hawaiians or part-Hawaiians.¹⁷⁷ 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.¹⁷⁸ 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 2001-02¹⁷⁹ to 299 in 2012-13,¹⁸⁰ and the waitlist has grown to more than 3,000.¹⁸¹

Historically, charter school proponents complain that the Legislature and the DOE/BOE have done little to help the charter schools succeed.¹⁸² 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.”¹⁸³

¹⁷⁶ 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>.

¹⁷⁷ 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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¹⁷⁹ Interview of Maunalei Love, Executive Director of the Charter School Administrative Office, Aug. 21, 2009.

¹⁸⁰ State of Hawaii, Dept. of Education, *Official Enrollment Count*, available at [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).

¹⁸¹ Interview of Maunalei Love, Executive Director of the Charter School Administrative Office, Aug. 21, 2009.

¹⁸² 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.

¹⁸³ Interview with former Congressman Ed Case.

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."¹⁸⁴ 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."¹⁸⁵

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.¹⁸⁶ 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."¹⁸⁷

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.¹⁸⁸

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 2009,¹⁸⁹ 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

¹⁸⁴ 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.

¹⁸⁵ *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.

¹⁸⁶ Act 130, SLH 2012 http://www.capitol.hawaii.gov/session2012/bills/GM1232_.PDF

¹⁸⁷ 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/>.

¹⁸⁸ 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/>.

¹⁸⁹ 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.

that must provide their own facilities (and the DOE demands that the facilities satisfy stringent standards).

Home Schooling

[*Need to redo this section. Verify what appears to be a complete absence of data, policies, guidelines, training, etc., on homeschooling in Hawaii.]

Homeschooling is a growing phenomenon across the nation, and there is a great deal of information about homeschooling in many individual states. But in Hawaii we don't know how many children are being homeschooled, whether their homeschooling experiences have been good or not-so-good, how the performance of homeschoolers compares to that of in-school students (whether measured by standardized exams, graduation rates, college admission, or whatever), or even why homeschooling was chosen or how long it lasted.

Approximately 1.97 million children were being home-schooled in the United States in 2012; an estimated 7,856 in Hawaii.¹⁹⁰ That number could be way off. The homeschooling law and regulations in Hawaii¹⁹¹ suggest more structure than appears to exist.

First the theory: A homeschooling parent is 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.¹⁹² Written records of progress must demonstrate that the child is acquiring up-to-date knowledge and useful skills,¹⁹³ and such records must be sequential and cumulative, and include beginning and ending dates, instructional hours per week, subject areas, teaching methods, instructional materials, and performance reports.¹⁹⁴ Additionally, the child must participate in the Statewide Testing Program in grades three, five, eight, and ten,¹⁹⁵ and pass muster with the principal of the school that the parent notified its intent to homeschool.¹⁹⁶ In short, the parent is required to maintain a program of instruction at home that is roughly equivalent to what the child would be getting in a DOE school. That's the theory.

The practice could be quite different: As research for this essay I contacted the DOE's contact person for homeschooling in Hawaii. It took six weeks of trying. Asked how many students are currently being homeschooled in Hawaii, the person said, "We do not have that number," and added that each homeschooler is the responsibility of the principal at that child's neighborhood school, as though that eliminated any reason for anyone else in the DOE to be involved. But when I asked him to describe the formal training or written guidelines for principals about how to carry out this responsibility with respect to individual homeschoolers, he said, "We don't have anything like that." They also make no attempt to survey homeschoolers (students and parents) about their experiences (e.g., whether it was generally positive or negative, insights gained along

¹⁹⁰ A2Z Homes Cool, *How Many Homeschoolers in America?* (Sept. 1, 2013),

http://a2zhomeschooling.com/concerns_homeschooling/numbers_homeschooled_students/

¹⁹¹ Haw. Rev. Stat. § 302A-1132(a)(5) (2013).

¹⁹² Haw. Admin. R. § 8-12-15 (2013).

¹⁹³ Haw. Admin. R. § 8-12-15 (2013).

¹⁹⁴ Haw. Admin. R. § 8-12-15 (2013).

¹⁹⁵ Haw. Admin. R. § 8-12-18(c) (2013).

¹⁹⁶ Haw. Admin. R. § 8-12-18(d) (2013).

the way, information they wish someone had given them, etc.). Eventually the DOE's contact person, who sounded like a genuinely likeable fellow, sheepishly agreed that homeschooling in Hawaii may have "fallen through a crack" in the DOE.

The basic rules for homeschooling in Hawaii are laid out nicely in the form of FAQs on the DOE's website.¹⁹⁷ Step one is to write on a piece of paper that a particular child will be

¹⁹⁷ **Frequently Asked Questions: Where do I submit my notice of intent to homeschool?**

Exceptions to Compulsory Education ([Form 4140](#)) or a letter of intent to homeschool should be sent to the principal of the public school in your neighborhood.

What is required to begin homeschooling my child?

Form 4140 must be completed and sent to the neighborhood school. A letter of intent, signed by the parent, can be used in place of Form 4140.

When can I begin to homeschool my child?

Homeschooling may begin as soon as the signed Form 4140 or letter of intent is sent to the neighborhood school.

What needs to be included in the letter of intent?

Name, address and telephone number of child; birth date and grade level of child; and signature of the parent and date of signature.

Do I need to submit any other records?

Parents are not required to officially enroll and un-enroll students in order to homeschool their child; therefore, no birth certificate or proof of residency is required.

How do I know if the school has acknowledged my intent to homeschool?

The school and complex area office acknowledge the notice of intent submitted by the parents by sending the parents a copy of Form 4140 after it is signed by the principal and complex area superintendent; or writing "acknowledged" on the bottom of the parent's letter of notification with the signature of the principal and complex area superintendent, and returning the letter to the parent. Copies of Form 4140 or the letter of intent are kept on file at the school and district office.

Who is considered qualified to teach homeschooled children?

A parent teaching his/her child at home shall be deemed a qualified instructor regardless of educational background or training.

What are my responsibilities to the Department after I have sent my intention to homeschool?

The parents submitting a notice to homeschool their child shall be responsible for the child's total educational program including athletics and other extracurricular activities. An annual progress report, showing satisfactory progress in all content areas, shall be submitted at the end of each school year.

Is my child required to participate in annual Hawaii State Assessments?

A homeschooled child is eligible to participate in the Statewide Testing Program at the local public school. Test scores shall be required for grades 3, 5, 8 and 10; however, a parent may elect to arrange for private testing of an equivalent standardized test at the parent's own expense. The parent may request and the principal may approve other means of evaluation to meet the Statewide Testing Program requirements.

What are appropriate methods to demonstrate my child's satisfactory progress?

A score on a nationally-normed standardized achievement test, which demonstrates grade level achievement appropriate to a child's age; progress on a nationally-normed standardized achievement test that is equivalent to one grade level per calendar year, even if the overall achievement falls short of grade level standards; a written evaluation by a person certified to teach in the State of Hawaii that a child demonstrates appropriate grade level achievement or significant annual advancement commensurate with a child's abilities; or a written evaluation by the parent which shall include a description of the child's progress in each subject area included in the child's curriculum, representative samples of the child's work, and representative tests and assignments including grades for courses if grades are given.

Do I need to submit any health records to the neighborhood school?

Health records are not required for homeschooled children. It is not necessary for the homeschooled child to submit the TB (tuberculosis) test clearance or Form 14 (Student Health Record).

Do I need to re-submit intent to homeschool annually?

homeschooled. Step two is to send that piece of paper to the principal of the child's neighborhood public school. Step three ... well there really isn't a step three. The principal merely acknowledges receipt of the piece of paper, and the child's parent or guardian thereby becomes responsible for the child's "total educational program." Annual progress reports are required, but there's no certainty that anyone reads them. Homeschoolers cannot earn a high school diploma in Hawaii.

The Adults in the System

No. The only time a new Form 4140 or a new letter of intent to homeschool needs to be resubmitted is when the child transitions from elementary to intermediate/middle school or intermediate/middle school to high school, or if the child moves to another neighborhood.

Do I need to submit a curriculum to the Department?

Parents are not required to submit their curriculum to the Department or the school of record for review unless the school has reasonable cause to believe that there may be educational neglect. A parent is responsible for keeping a record of the planned curriculum for the child. The curriculum shall be structured and based on educational objectives as well as the needs of the child, be cumulative and sequential, provide a range of up-to-date knowledge and needed skills, and take into account the interests, needs and abilities of the child. A principal at the school of record may request to view the curriculum if the annual report is not sufficient to show satisfactory progress.

How do I know what to teach my child while homeschooling?

Schools are responsible for informing parents what basic units of study should be covered for a particular grade level. Information on the standards and benchmarks for each grade level can be found on the Department's curriculum standards website: <http://standardstoolkit.k12.hi.us>.

How can I end homeschooling?

Whenever the parent chooses to terminate homeschooling, the parent is required to notify the principal of the school of record (school where intent to homeschool was sent). The child shall be re-enrolled in the local public school or a licensed private school unless a new alternative educational program is presented within five school days after the termination of homeschooling. Notification may be written or verbal.

What grade level will my elementary child be placed after homeschooling has ended?

For grades one through eight, the homeschooled child shall re-enroll at the appropriate grade level by birth date. For example, if the homeschooled child by birth date should be an eighth grader, then he/she is enrolled as an eighth grader.

Can I challenge the grade level of my re-enrolled child?

Once the child is enrolled, if the school or parent has a concern about appropriate grade level placement, then the school shall evaluate the student (as it would any other student) and make adjustments accordingly, including placement at another grade level. Parents should be informed and involved in the assessment, as feasible. The principal's decision about grade placement is final.

Will my child receive a high school diploma at the completion of homeschooling?

Homeschooled students do not receive a high school diploma. A homeschooled student who wants to earn a high school diploma from the local public high school shall attend high school for a minimum of three full years to meet the graduation credit requirements.

Is there any other way to receive a high school diploma?

A homeschooled student who wants to earn a high school diploma from the [community school for adults](#) shall meet the following requirements and must: a) be at least sixteen years of age, except in the case of an emancipated minor; b) have been homeschooled for at least one semester under Hawaii's homeschooling procedures; and c) attain a satisfactory score on the General Educational Development (GED) test.

May my child apply to college after completing homeschooling?

A child who is being homeschooled may participate in any college entrance examination, which is made available to all other students. The principal of the local public high school shall, upon request, supply written acknowledgment that a child has been homeschooled in compliance with the requirements of [Chapter 12, Hawaii Administrative Rules](#). The letter is written for homeschooled children whose parents have met the requirements of Chapter 12, i.e., submitted an annual progress report and test data for appropriate grade levels.

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.¹⁹⁸ 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.¹⁹⁹

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.²⁰⁰ 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.²⁰¹ Internal DOE budget sheets put the number at \$2.8 billion.²⁰²

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

¹⁹⁸ 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>.

¹⁹⁹ Winkler, Scull & Zeelandaar, How Strong are U.S. Teacher Unions? A State-By-State Comparison, Oct. 2012, available at <http://files.eric.ed.gov/fulltext/ED537563.pdf>.

²⁰⁰ 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.

²⁰¹ See Table 15, p. 8, available at http://arch.k12.hi.us/PDFs/state/superintendent_report/2015/2015SuptRptFinal.pdf.

²⁰² 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>. 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>.

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.²⁰³

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 21,244²⁰⁴ 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.²⁰⁵

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.²⁰⁶ Among the employees of the DOE are about 11,241²⁰⁷²⁰⁸ 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 teachers²⁰⁹ and the rest provide support services.²¹⁰ 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),

²⁰³ *cite Cooper & Ouchi Study. Maybe quote from it.

²⁰⁴ 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>

²⁰⁵ 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.

²⁰⁶ 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>.

²⁰⁷ State of Hawaii, Dept. of Education, *Superintendents Report* 17, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

²⁰⁸ Called HSTA(808) 833-2711 1:40 pm July 31, 2013. Left message.*

²⁰⁹ State of Hawaii, Dept. of Education, *Superintendents Report* 17, May 14, 2013, available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>

²¹⁰ University of Hawai'i Public Policy Center, "Report to the 2009 Legislature," Section III (January 2009).

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.²¹¹ 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.²¹²

HSTA and HGEA officials describe themselves as tough negotiators and proactive players in the political arena.²¹³ 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."²¹⁴

Even staunch union supporters sometimes express concerns about the implications of having both unionized labor *and* unionize management.²¹⁵ Some are particularly concerned that the system's managers are in the same union as many of the workers—HGEA.²¹⁶ 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."²¹⁷

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."²¹⁸

Allocating funds among the schools

²¹¹ Needs cite*

²¹² 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.

²¹³ 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.

²¹⁴ *Id.*

²¹⁵ Need cite*

²¹⁶ Need cite*

²¹⁷ Interview of Governor Benjamin Cayetano by Randall Roth, August 14, 2009.

²¹⁸ 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.

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.’”²¹⁹

“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.”²²⁰

“[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.”²²¹

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.”²²² In Edmonton, schools are allocated approximately 80 percent of the school district’s total budget.²²³ Each principal controls the school’s operating funds and is not required to purchase services from central administration.²²⁴

Although on paper WSF has shifted control over nearly half of each Hawaii public school’s budget to the principal,²²⁵ 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

²¹⁹ 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.

²²⁰ Hiller, “Bill gives principals more control over spending,” *The Honolulu Advertiser*, at A1, Apr. 10, 2003, at A1.

²²¹ *Id.*

²²² 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.

²²³ Edmonton Public Schools, *Budget Services – Allocation* (Accessed 11:13 a.m., Aug. 1, 2013), <http://www.epsb.ca/budget/allocating.shtml>.

²²⁴ *Id.*

²²⁵ 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%.

that half is still controlled outside the schools despite the adoption of WSF.²²⁶ 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.²²⁷

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.²²⁸

In contrast, the use of actual salaries would reflect the reality of exactly what is being paid,²²⁹ 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).²³⁰ Teacher unions invariably oppose the use of actual salaries because of their "concern that principals might discriminate against more 'expensive' veteran teachers."²³¹

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.²³² They believe that managers within a monopoly tend over time to take their "customers" for granted.²³³ Hawaii's Business Roundtable has expressed similar thoughts:

"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."²³⁴

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

²²⁶ Needs cite*

²²⁷ 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.

²²⁸ American Institute for Research, *Evaluation of Hawaii's Weighted Student Formula: Key Considerations 2-3*, (June 2013).

²²⁹ American Institute for Research, *Evaluation of Hawaii's Weighted Student Formula: Key Considerations 3*, (June 2013).

²³⁰ Id.

²³¹ American Institute for Research, *Evaluation of Hawaii's Weighted Student Formula: Key Considerations 3*, (June 2013).

²³² Needs cite*

²³³ Needs cite*

²³⁴ "Redesigning Hawai'i Public Education," Hawai'i Business Roundtable Position Paper, Mar. 2, 2004.

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.”²³⁵

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.”²³⁶

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.”²³⁷

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.²³⁸ The same study gave Hawaii an overall ranking of 29th in the United States.²³⁹

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. 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.²⁴⁰ Results from the nationally administered Scholastic Achievement Test (SAT) also have placed Hawaii at or near the bottom year after year.²⁴¹

²³⁵ Borreca, “Politicians keep talking, students keep waiting,” The Honolulu Star-Bulletin, Nov. 30, 2003.

²³⁶ BW Associates, “Educational Excellence for the Pacific Era,” (Berman Report) p. 6, November 15, 1988.

²³⁷ 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 Hawaii Public Policy Center, Report to the 2009 Legislature, Section II (Jan. 2009).

²³⁸ Education Week, *Quality Counts 2013, Hawaii State Highlights* (2013).

²³⁹ Education Week, *Quality Counts 2013, State Report Cards* (2013).

²⁴⁰ National Center for Education Statistics, NAEP State Comparisons, available at <http://nces.ed.gov/nationsreportcard/statecomparisons/>.

²⁴¹ 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.

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.²⁴²

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.²⁴³ 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.²⁴⁴ Second, public school juniors in Hawaii were not required to take the ACT until 2013, so relatively few did so in earlier years.²⁴⁵ 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 news is the high number of students challenging themselves with the college rigor of the ACT text.”²⁴⁶

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).²⁴⁷ 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

²⁴² 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.

²⁴³ See, e.g., Moreno, “Isles a bit above ACT average,” Honolulu Advertiser, August 19, 2009 (“While Hawaii’s ACT scores for the graduating class of 2009 showed small decreases from last year, overall the state’s results show that Hawaii’s college-bound students are more prepared for post-secondary degree work than many of their national counterparts.”)

²⁴⁴ 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, Hawaii’s public school students again fared significantly lower than their private school counterparts on the college entrance exam...Hawaii’s public school students averaged 474 in math, 454 in reading and 441 in writing...Hawaii’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.

²⁴⁵ State of Hawaii, Dept. of Education, *Public schools gear up for college-and-career assessments*, April 2013, available at <http://www.hawaiidoereform.org/enews/2013-04/Public-schools-gear-up-for-college-and-career-assessments>.

²⁴⁶ “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>.

²⁴⁷ Superintendent’s 23rd Annual Report, p. 8, (May 2013), available at <http://www.hawaiipublicschools.org/DOE%20Forms/School%20Reports/SuptAnnualReport20130514.pdf>.

2009, compared to the national average was 74.7%.²⁴⁸ 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,²⁴⁹ and a "Dropout Rate" in Hawaii of 5.7 versus the national average of 38%.²⁵⁰

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."²⁵¹ 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.²⁵²

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.²⁵³ The DOE's Strategic Plan envisions that its graduates are career ready and "possess the attitudes, knowledge and skills necessary to contribute positively and compete in a global society."²⁵⁴

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,

²⁴⁸, Education Week, *State Graduation Report 2013*, available at

<http://www.edweek.org/apps/gmap/details.html?year=2013&zoom=6&type=1&id=HI>.

²⁴⁹ U.S. Dept. of Education, Ed Data Express, State Data Table, available at <http://www.eddataexpress.ed.gov/state-tables-main.cfm>.

²⁵⁰ 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/pubs2013/2013309/tables/table_08.asp.

²⁵¹ "The National Center for Public Policy and Higher Education, "The Educational Pipeline: Big Investment, Big Returns," Policy Alert, Apr. 2004.

²⁵² See <http://www.highereducation.org/reports/pipeline/HI/HI-b.pdf> for comparisons at each stage of the pipeline.

²⁵³ UHCC Office of Academic Planning, Assessment, and Policy Analysis, as reported in an email from Cheryl Chappell-Long to Melissa Kolonie, dated Nov. 19, 2013.

²⁵⁴ 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>

Air Force, Navy, and Coast Guard).²⁵⁵ 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).²⁵⁶

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."²⁵⁷ And a federal panel of experts concluded that the DOE lacked "coherency" in academic content and achievement standards, and in its assessment system.²⁵⁸ 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."²⁵⁹

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 . . ."²⁶⁰ Proponents 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.²⁶¹ 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.²⁶² The Hawaii DOE began its implementation of

²⁵⁵ 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.

²⁵⁶ 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).

²⁵⁷ 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.")

²⁵⁸ Nina Buchanan and Mary Anne Raywid, "What is really needed to fight isle's dismal test scores," The Honolulu Star-Bulletin, Aug. 6, 2006.

²⁵⁹ Cite Mary Ann's article.*

²⁶⁰ Common Core Standards Initiative, *The Standards*, <http://www.corestandards.org/the-standards> (last visited Aug. 8, 2013, 12:30 P.M.)

²⁶¹ 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.

²⁶² 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>.

the CCSS in school year 2012-2013 with grades K-2 and 11-12.²⁶³ Full implementation is scheduled at all grade levels in school year 2013-2014.²⁶⁴

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.²⁶⁵ 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."²⁶⁶ 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."²⁶⁷ The Strive HI Performance Index aligns to the BOE/DOE State Strategic Plan's 2012 vision of success.²⁶⁸

"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."²⁶⁹

"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."²⁷⁰

²⁶³ 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.)

²⁶⁴ 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.)

²⁶⁵ 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

²⁶⁶ 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>

²⁶⁷ 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>

²⁶⁸ 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>

²⁶⁹ 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>

²⁷⁰ 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>

“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.”²⁷¹

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.²⁷² The Washington Post ran a story in August of 2013 about Hawaii’s “perpetual teacher shortage.”²⁷³ 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.”²⁷⁴

“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.”²⁷⁵

“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.”²⁷⁶

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.²⁷⁷ It can literally take years of time-consuming effort to

²⁷¹ 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>

²⁷² 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.”).

²⁷³ “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.

²⁷⁴ BW Associates, “Educational Excellence for the Pacific Era,” (Berman Report) p. 19, November 15, 1988.

²⁷⁵ DeRego, *Island Voices*, Honolulu Advertiser, Oct. 17, 2003, at A16.

²⁷⁶ 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>.

²⁷⁷ 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

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.”²⁷⁸ A life-long educator responded, “If this doesn’t convince you that the HSTA protects its own, rather than students, nothing will.”²⁷⁹

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.²⁸⁰ 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.”²⁸¹ 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.”²⁸²

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.”²⁸³

“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.”²⁸⁴

Families in Hawai‘i, Nov. 2007; available at <http://www.Hawai‘i.edu/hepc/pdf/Reports/HIDOEMilitarySurvey.pdf>; last visited 6/12/09.

²⁷⁸ Roderick McPhee, “Union policies hinder improvement efforts,” *The Honolulu Advertiser*, June 15, 1997, at B3.
²⁷⁹ *Id.*

²⁸⁰ 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.

²⁸¹ 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.

²⁸² “Large Number of BOE Children Attend Private School: Some BOE Members Say Public Schools Do Not Meet Needs,” *KITV News*, May 2, 2003.

²⁸³ 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>.

²⁸⁴ D’Olier, “K-12 Public Education Redesign – Hawai‘i an Style,” presented to Social Science Association, Nov. 3, 2003.

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.²⁸⁵

[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 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

²⁸⁵ 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.").

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.”²⁸⁶

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.”²⁸⁷

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:

“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?”²⁸⁸

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

²⁸⁶ Ronn Nozoe, Op-Ed, “DOE needs Hamamoto,” *Midweek*, Aug. 5, 2009, at 4.

²⁸⁷ Editor’s page, *Schools and Stars*, May 2013, available at <http://www.honolulumagazine.com/Honolulu-Magazine/May-2013/Editors-Page-Schools-and-Stars/>

²⁸⁸ 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/>

demonstrated that over reliance on student test scores puts undue and unfair pressure on students without providing for a well-rounded education.”²⁸⁹

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.²⁹⁰

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.”²⁹¹

Such critics also faulted the DOE/BOE for its refusal in the past to measure degrees of improvement in student performance.²⁹² 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 closing achievement gaps between high-needs students and non-high needs students.²⁹³ 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.²⁹⁴ Also of significant benefit to

²⁸⁹ 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/>.

²⁹⁰ 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.

²⁹¹ Lingle, “Student testing matters a lot,” *The Honolulu Advertiser*, at A17, Oct. 15, 2003.

²⁹² 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).

²⁹³ 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>.

²⁹⁴ 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

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,²⁹⁵ 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.²⁹⁶

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.²⁹⁷ 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.

[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

would have to negotiate with all of the school boards.

²⁹⁵ 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/>

²⁹⁶ *Id.* at note 219, quoting Gerald Teramae, Principal of Kalani High School.

²⁹⁷ "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.

decertify the union, but the principals declined.²⁹⁸ 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.²⁹⁹ 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"³⁰⁰ 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."³⁰¹

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.³⁰²

"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.'"³⁰³

The Honolulu Advertiser agrees: "Ultimately, we get what we pay for. ... Low pay for teachers is an embarrassment."³⁰⁴

²⁹⁸ "Union policies hinder improvement efforts," *Honolulu Advertiser*, June 15, 1997, at B3.

²⁹⁹ *Id.*

³⁰⁰ 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.

³⁰¹ David Shapiro, "Education reform? Forget it," *The Honolulu Advertiser*, October 15, 2003

³⁰² 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.")

³⁰³ *The Honolulu Advertiser*, p. B4, 10/23/03.

³⁰⁴ *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).

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;³⁰⁵ and the starting salary for beginning teachers, \$32,092, ranked 13th from the top.³⁰⁶ For internal accounting purposes, the DOE's 2013 fringe benefits cost 41.54 percent of salary.³⁰⁷ 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 \$51,922³⁰⁸ On a per-student basis, average teacher pay in Hawaii reportedly is \$6,681, as compared to a national average of \$6,387.³⁰⁹

Hawaii was 13th highest among the 50 states in per-student expenditures for 2011: \$12,004 versus a national average of \$10,560.³¹⁰ 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 \$13,624.³¹¹

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 or 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.³¹² 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

³⁰⁵ 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).

³⁰⁶ 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>.

³⁰⁷ 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.

³⁰⁸ 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>.

³⁰⁹ U.S. Census Bureau, *Public Education Finances: 2011*, Table 8 <http://www2.census.gov/govs/school/11f33pub.pdf>.

³¹⁰ U.S. Census Bureau, *Public Education Finances: 2011*, Table 8 <http://www2.census.gov/govs/school/11f33pub.pdf>.

³¹¹ 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.

³¹² 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

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.³¹³ 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.³¹⁴ 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.³¹⁵

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."³¹⁶

However, only 15.8 percent of Hawaii's school-age children (34,132 from a total population of 215,345) attended private schools in 2010.³¹⁷ This placed Hawaii 12th from the top among the 50 states—hardly an explanation for test scores in the bottom tier nationally.³¹⁸ And, 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.³¹⁹

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

³¹³ 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).

³¹⁴ See "Quality Counts 2009," *supra* at note 60, at 52.

³¹⁵ Kwak, *supra* at note 50.

³¹⁶ 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."

³¹⁷ State of Haw., Dept. of Education, Superintendent's 23rd Annual Report (2013).

³¹⁸ Kwak, *supra* note 50. Although not necessarily relevant, it is interesting that the percentage of Hawai'i's school-age children in private schools at the time of statehood, at 15.9 percent, was slightly *higher* than it is now.

³¹⁹ See discussion in essay *supra*, at notes 57-61.

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.”³²⁰

“[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.”³²¹

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.”³²²

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.³²³ To be a member of the BOE, the Governor must nominate the individual, and the Senate must approve the appointment.³²⁴ 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.”³²⁵ The members are not paid and serve on the board for three years.³²⁶

Critics of the current board member selection process say that it gives too much power to the Governor.³²⁷ Critics of the current board have a unfavorable view of the board meetings

³²⁰ 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.

³²¹ David Shapiro, “Education reform? Forget it,” The Honolulu Advertiser, Oct. 15, 2003.

³²² See http://www.whitehouse.gov/the_press_office/Remarks-of-the-President-to-the-United-States-Hispanic-Chamber-of-Commerce/

³²³ Board of Education, *By Laws of the Hawaii Board of Education*, art. 2. (May 27, 2011), available at <http://www.hawaiiboe.net/Meetings/Notices/Documents/04-26-11%20GBM/Board%20of%20Education%20By%20laws%20Final.pdf>

³²⁴ Haw. Const. art. X, § 2.

³²⁵ *Id.*, Sec. 3.

³²⁶ Board of Education, *By Laws of the Hawaii Board of Education*, art. 2. (May 27, 2011), available at <http://www.hawaiiboe.net/Meetings/Notices/Documents/04-26-11%20GBM/Board%20of%20Education%20By%20laws%20Final.pdf>

³²⁷ 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

being held in during the workday.³²⁸ Current HSTA President said that the board has not “lived up to its pledges to remain independent and accessible.”³²⁹ 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.”³³⁰

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 1964.³³¹ 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.³³²

“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

³²⁸ 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

³²⁹ 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

³³⁰ 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

³³¹ Am HB 421 (1964), Haw. Const., art. X, § 2.

³³² See, Hawaii Children First at <http://www.hawaiichildrenfirst.org/>

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.”³³³

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.³³⁴ Nine years ago, she labeled Hawaii's public-education system “obsolete.”³³⁵ 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.”³³⁶

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?”³³⁷

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.

³³³ *Id.*

³³⁴ Pat Hamamoto, “The State of Public Education,” Jan. 28, 2004.

³³⁵ *Id.*

³³⁶ John Kawamoto, “Decentralizing needs open discussion,” *The Honolulu Star-Bulletin*, at A12, Oct. 10, 2003.

³³⁷ Keany, *supra* note 127.

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?”³³⁸

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.”³³⁹

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.”³⁴⁰ The following year, “pay raises and other personnel consequences, such as termination, will be tied to teachers’ ratings.”³⁴¹ 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."³⁴²

"Effective teachers are key to achieving our goals with students, and the new evaluation design provides teachers with the actionable feedback they need to help drive their professional development and support their own growth plans. This is more than an evaluation; it's a system."³⁴³

³³⁸ *Id.*, quoting Gerald Teramae, Principal of Kalani High School.

³³⁹ 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

³⁴⁰ 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

³⁴¹ 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

³⁴² 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.*

³⁴³ 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.*

[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.³⁴⁴ 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.”³⁴⁵ 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.”³⁴⁶

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.³⁴⁷ 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 accountable, since no one of them controls the system. As McPhee once put it, “When everyone is in control, no one is in control.”³⁴⁸

³⁴⁴ 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.”

³⁴⁵ Price of Paradise, chapter 32, “Public Schools,” (Mutual Publishing 1992) at 217.

³⁴⁶ 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.”)

³⁴⁷ See, e.g., Roderick McPhee, “Public Education,” Chapter 4 in The Price of Paradise, Volume II, p. 29 (Mutual Publishing 1993).

³⁴⁸ Roderick McPhee, “Union policies hinder improvement efforts,” The Honolulu Advertiser, June 15, 1997, at B3.

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?”³⁴⁹

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.³⁵⁰ 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 foods in the right quantities, even if there were no negative consequences to eating whatever might appeal to us at any particular time.

³⁴⁹ Honolulu Star-Bulletin, Aug. 19, 2009, comment #5, from “satch7,” available at [http://www.starbulletin.com/editorials/20090819_Hawai's_schools_A_bureaucratic_maze.html](http://www.starbulletin.com/editorials/20090819_Hawai%27s_schools_A_bureaucratic_maze.html)

³⁵⁰ President Harry Truman is credited with having made a point about the president's accountability by famously saying, “the buck stops here.”

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.”³⁵¹

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.”³⁵²

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.³⁵³ 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,³⁵⁴ 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.”³⁵⁵ 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.

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,³⁵⁶ even in a decentralized system. The 1974 CORE Report noted that

³⁵¹ John Kawamoto, “Decentralizing needs open discussion,” The Honolulu Star-Bulletin, at A12, Oct. 10, 2003.

³⁵² 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.

³⁵³ Needs cite

³⁵⁴ Armstrong, “Where Legislators Send Their Children to School,” Honolulu Star-Bulletin, Mar. 10, 1973, at 1.

³⁵⁵ Armstrong, “What’s Wrong at the DOE?,” Honolulu Star-Bulletin, Feb. 23, 1973.

³⁵⁶ CORE Report, p. A-15

funding appeared not to be a problem, and that decentralization was possible without loss of equitable funding.³⁵⁷ 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.³⁵⁸ 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."³⁵⁹

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."³⁶⁰ 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.'"³⁶¹

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.³⁶²

"[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."³⁶³

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:

³⁵⁷ CORE Report, p. A-26

³⁵⁸ BW Associates, "Educational Excellence for the Pacific Era," (Berman Report) p. 19, November 15, 1988.

³⁵⁹ *Id.*, p. 8; cite Slater, et al, too.

³⁶⁰ Governor John Waihee as quoted at Tschumy, "Reinventing education," Honolulu Star-Bulletin, Dec. 5, 2004.

³⁶¹ Borreca, "Politicians keep talking, students keep waiting," The Honolulu Star-Bulletin, Nov.30, 2003.

³⁶² *Id.*

³⁶³ 1991 Berman Report, Legislative Reference Bureau.

“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.”³⁶⁴

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.”³⁶⁵

Several Task Force members noted “a cacophony of orchestrated [opposition],”³⁶⁶ 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.”³⁶⁷

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 levels of student achievement and satisfaction levels among teachers, parents, and administrators in Edmonton—through decentralization.³⁶⁸ Toguchi’s team returned enthusiastic about

³⁶⁴ 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”)

³⁶⁵ 1992 Task Force on Education Governance, Benjamin Cayetano, Chairman, p. 49.

³⁶⁶ Barbara L. Okamoto letter to Task Force, Mar. 16, 1992.

³⁶⁷ Paige E. Lawes’ letter to Task Force, Mar. 16, 1992.

³⁶⁸ 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

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.”³⁶⁹

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;³⁷⁰ in 1995, she found that the DOE lacked management controls and expenditure information necessary to determine the operations costs of specific schools and programs;³⁷¹ a year later, the Auditor again found that the DOE's school-level expenditure data was unreliable;³⁷² 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,³⁷³ 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.”³⁷⁴

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

http://findarticles.com/p/articles/mi_m0JSD/is_10_52/ai_77196865/.

³⁶⁹ Borreca, “Kickin’ around education reform again,” Honolulu Star-Bulletin, Mar. 21, 2004.

³⁷⁰ *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.

³⁷¹ *Status Report on Monitoring Fiscal Accountability of the Department of Education: Case Study – Royal Elementary School*, Report No. 95-23.

³⁷² *Fiscal Accountability in the Department of Education: How Accurate Are Textbook Costs?* Report No. 97-1

³⁷³ *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.

³⁷⁴ 1998 report (98-4).

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.”³⁷⁵

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.³⁷⁶ 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.”³⁷⁷ The unions opposed it, however, and that was enough to kill it in the Senate.³⁷⁸ 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.”³⁷⁹

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.³⁸⁰ In her first State of the State address to the Legislature, she called upon lawmakers to decentralize the system.³⁸¹ Specifically, Lingle wanted to remove principals from the union, give them control over the bulk of their own

³⁷⁵ Hawai‘i’s Economic Future: Proposals of the Economic Revitalization Task Force,” Hawai‘i’s Economy, Special Edition (Mar. 1998), p. 16, available at http://Hawai'i.gov/dbedt/info/economic/data_reports/Hawai'i-econ/he3-98.pdf (last visited Aug. 1, 2009).

³⁷⁶ The People’s Pulse, Winter 2003.

³⁷⁷ Gov. News Release, Mar. 6, 2003, at http://Hawai'i.gov/gov/news/releases/2003/News_Item.2006-01-19.1512.

³⁷⁸ Arakawa, “Bill calls for 15 school boards,” Honolulu Advertiser, Feb. 16, 2002.

³⁷⁹ Press Release from Governor’s Office, Mar. 6, 2003.

³⁸⁰ 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.”)

³⁸¹ Governor Lingle State of the State address to the Legislature, Jan. 21, 2003.

budgets, and hold them accountable for improved student performance.³⁸² Also, she wanted local school boards to provide support and oversight to the principals.³⁸³

“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.”³⁸⁴

“Residents clearly favor decentralization including more authority for principals. ... A staggering 67% of those polled favored shifting most decisions from the DOE to principals.”³⁸⁵

Lingle also asked the Legislature to give charter schools greater autonomy and fair funding.³⁸⁶ 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, secretaries and janitors would be free to form or join a union, but that would be their choice.”

³⁸² Needs cite

³⁸³ Needs cite

³⁸⁴ The People's Pulse, at 1-2 (Summer 2003) (“Pulse”).

³⁸⁵ Pulse, p. 1 (Spring 2003).

³⁸⁶ Needs cite

Not one of the Governor's bills even made it out of the House or Senate education committee.³⁸⁷ Disappointed but undeterred, she prepared for the 2004 session by collecting additional information about key issues.³⁸⁸ Getting it was usually difficult, and sometimes impossible.³⁸⁹ 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.”³⁹⁰

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.³⁹¹

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 UCLA had been born and raised in Hawaii, and his mother, aunt, and sister had taught in

³⁸⁷ 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.

³⁸⁸ Arakawa, “Lingle adviser named to education role,” *Honolulu Advertiser*, Oct. 10, 2003, at B2.

³⁸⁹ 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.

³⁹⁰ *Id.*

³⁹¹ Hamamoto, “The State of Public Education,” address to the Hawai'i State Legislature, Jan. 28, 2004.

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.³⁹² 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.³⁹³ 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 \$10,422.³⁹⁴ 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.³⁹⁵

The DOE/BOE immediately questioned the professors’ methodology, objectivity, and each of their conclusions.³⁹⁶ The DOE’s director of communications also questioned their motives, publicly accusing Ouchi of concocting “phony research” in exchange for “free trips.”³⁹⁷ The

³⁹² See, e.g., William Ouchi, “Making Schools Work: A Revolutionary Plan to Get Your Children the Education They Need,” Simon & Schuster (2003).

³⁹³ 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.”).

³⁹⁴ William Ouchi and Bruce Cooper, “Financial Analysis of Hawai‘i Public Schools,” Nov. 23, 2003.

³⁹⁵ The professors found that there were 23,790 fulltime employees and “casual hires” who comprised another 10,000 fulltime-equivalent employees.

³⁹⁶ Needs cite

³⁹⁷ 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.”³⁹⁸

The DOE/BOE eventually accepted the professors’ per-student cost numbers as accurate,³⁹⁹ 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.⁴⁰⁰

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.”⁴⁰¹

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:⁴⁰²

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

³⁹⁸ 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.

³⁹⁹ 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.”).

⁴⁰⁰ 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.

⁴⁰¹ John P. Dolly, “Public Schools,” *The Price of Paradise*, Ch. 32, p. 214.

⁴⁰² 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.”⁴⁰³

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.”⁴⁰⁴

Like the State Auditor, Ouchi and Cooper found egregious weaknesses in the DOE’s information systems, including an inability to allocate costs properly.⁴⁰⁵ 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.”

⁴⁰³ *Id.*, p. 7.

⁴⁰⁴ *Id.*

⁴⁰⁵ *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.”⁴⁰⁶

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.”⁴⁰⁷ 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.”⁴⁰⁸

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.⁴⁰⁹

⁴⁰⁶ *Id.*

⁴⁰⁷ 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.

⁴⁰⁸ *Id.*

⁴⁰⁹ 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.”⁴¹⁰

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.”⁴¹¹

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.”⁴¹²

“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.”⁴¹³

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

⁴¹⁰ Mary Ann Raywid, “Let each island govern its own education affairs,” Honolulu Star-Bulletin, Dec. 4, 2003.

⁴¹¹ Citizens Achieving Reform in Education (CARE), Report to the Governor, Dec. 15, 2003.

⁴¹² *Id.*

⁴¹³ 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.”⁴¹⁴

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.⁴¹⁵

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.”⁴¹⁶ 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.”⁴¹⁷

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.”⁴¹⁸

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.”).

⁴¹⁴ Ouchi & Cooper, *supra* note 214.

⁴¹⁵ The Tarrance Group, Jan. 29 and Feb. 1-2, 2004; 600 registered “likely” Voters; 4.1% margin of error.

⁴¹⁶ “School reform is not change for change sake,” *The Honolulu Advertiser*, Oct. 6, 2003, at A6.

⁴¹⁷ Editorial, *Honolulu Advertiser*, Oct. 16, 2003, at A16.

⁴¹⁸ 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.⁴¹⁹

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?”⁴²⁰

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

⁴¹⁹ From the author’s notes and interviews of Laura Thielen, Michael Strembitsky, William Ouchi, Bruce Cooper, and Mary Anne Raywid.

⁴²⁰ “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.”⁴²¹

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

⁴²¹ 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.”⁴²²

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.⁴²³ 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:

⁴²² Interview with Ed Case.

⁴²³ 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.”⁴²⁴

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.”⁴²⁵

The DOE acknowledges an inability to conduct regular financial audits of the schools,⁴²⁶ 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.”⁴²⁷

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

⁴²⁴ Testimony Before Senate Committee on Economic Development and Taxation, Feb. 12, 2008, SB 3251, SD1).

⁴²⁵ 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.

⁴²⁶ *Id.*

⁴²⁷ 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.”⁴²⁸

“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.”⁴²⁹

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.⁴³⁰ 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.”

**[Need transition and re-writing.]

Governor Neil Abercrombie campaigned as a school reformer promising to decentralize the DOE and shift both funds and decision-making authority to the schools.⁴³¹ In addition to his public statements, the following were on his website during the campaign:

“An Abercrombie administration will implement a full-scale reorganization of the school system to place decision-making authority within the school.... [Principals should be able to function] as CEOs -- free from outside mandates and red tape.... [As governor I will] decentralize school administration, entrust principals with control of programs and budgets ... and encourage innovation.”

“[We need to] decentralize school administration: entrust principals with control of programs and budgets, redefine the role of the central DOE, and encourage innovation in traditional and charter schools.”

⁴²⁸ Procurement Audit of the Department of Education: Part 1, Report No. 09-03 (Feb. 2009).

⁴²⁹ Procurement Audit of the Department of Education: Part 2, Report No. 09-04 (Feb. 2009).

⁴³⁰ 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.”).

⁴³¹ See e.g., Abercrombie sets schools plan, Honolulu Advertiser, April 23, 2010, at <http://the.honoluluadvertiser.com/article/2010/Apr/23/In/hawaii4230353.html>; Tim Sakahara, Abercrombie introduces his plan for education, Hawaii News Now, 2010, at <http://www.hawaiinewsnow.com/story/12361444/abercrombie-introduces-his-plan-for-education>; and Derrick DePledge, Candidates give priority to education, Honolulu Star-Advertiser, Sept. 26, 2010, at <http://www.staradvertiser.com/2010/09/26/hawaii-news/candidates-give-priority-to-education/>.

Once elected, however, he filled the new appointed school board with people who evidently felt quite differently about what needed to be done.⁴³² The board's new chairperson, Don Horner, threw total support behind the DOE's recently appointed superintendent, Kathryn Matayoshi. Horner was a businessman. Matayoshi was a lawyer who had served in state government and most recently as top staff person at the Hawaii Business Roundtable. Both had sent their own children to the private Iolani School. Their vision was a public school system that looked and functioned more like a business. Horner, who at the time was CEO at First Hawaiian Bank, privately compared the relationship between the DOE's central administration and the public schools to the relationship between First Hawaiian Bank's executive staff and its branch banks. Under Horner and Matayoshi, the DOE's central administration became more top-down and controlling than ever before. Teachers had little room to be creative or innovative, or even to participate in curriculum development, textbook selection, or assessment planning. They theoretically still had some control over teaching methods, but the introduction of high-stakes standardized testing made it all-but-inevitable that schools would deemphasize subjects not on the tests, and teachers would tend to "teach to the test," rather than focus on the kind of learning that Miles Carey had championed at McKinley High School in the 1940s.

The following excerpts are from a Honolulu Star-Advertiser commentary written by twelve retired DOE educators—all of whom had served as a school principal and many had also served as a district superintendent, deputy district superintendent and/or complex area superintendent:

"The Star-Advertiser recently alerted the public to discontent among public school principals, via coverage of a critical survey that found 88 percent of 160 principals saying central administration is not providing sufficient support to the schools, and 65 percent fearing retaliation for disagreeing with or questioning system-wide initiatives ('Principals feel they're hamstrung, survey finds,' May 15, 2014).

"A follow-up commentary by four former principals called the current system 'dysfunctional' and pressed for school empowerment ('Public school leaders must be empowered to achieve success,' Island Voices, May 20, 2014); and an editorial called on state Department of Education leadership, school board members and the governor to heed the calls ('Address principals' concerns,' Our View, May 21, 2014).

"A school system that does not embrace what principals and teachers say, and is run on fear of top-down retribution, is sick and in obvious need of major change. The public should be asking, 'Exactly what needs to be changed, and who is best situated to make those changes?'

"The answer is school empowerment—which starts with decentralization of the system management. School empowerment can be accomplished in a variety of ways, but the bottom line is that central administrators relinquish power and

⁴³² Manjari Fergusson, What happened to Abercrombie's New Day? Hawaii Independent, July 29, 2014, at <http://hawaiiindependent.net/story/a-new-day-in-public-education>;

control over resources and serve the schools, rather than the other way around. Empowered schools get a much larger portion of each education dollar for students. And there is much greater transparency. The current system is opaque at best.

“With school empowerment, 90 cents of every dollar must be spent at the school level, and parents wanting to know how it affects their child's school have easy access to that information online.

“The BOE and a streamlined central administration would continue to set system-wide policies and provide oversight to empowered schools, but each school community would have a reasonable degree of freedom to innovate. “Central administration's primary responsibility would be to support the principals and teachers who are responsible for learning in the schools. The nature of that support would be determined by the professionals at each school and be based on the specific needs of those students.

“Turning the system right-side up—making central administration work for the schools rather than the other way around—would not require new laws. Press releases from the DOE have routinely portrayed happy principals, happy teachers, happy students and improving test scores. That cannot be squared with the results of the recent principals' survey.

“The DOE has used excellence at Waipahu High to ‘prove’ the value of the Race to the Top initiative, despite the fact that Waipahu had not received any ‘Race’ funds nor implemented any ‘Race’ programs. The DOE also has touted a bump in test scores without making clear that students now take tests up to three times rather than once. Transparency and integrity are essential, as is a culture of high expectations and innovation.....”

Another highly regarded former principal, Catherine Payne, later wrote an equally critical commentary that generated a great deal of public discussion:

Quote from Christine Donnelly piece:

"It's vital that we get this going at the grassroots. A lot of people don't realize what is being lost," said Catherine Payne, who was principal of Farrington High School for 15 years and now is chairwoman of the State Public Charter School Commission; she also sits on the Education Institute of Hawaii's governing board. Payne said that even before she retired from Farrington in 2010, central-office support for school autonomy was dropping, a decline that has since accelerated.

"We're moving back to a top-down system. People sort of accepted this because of the federal influence, but as it's been happening, many, many people have started to question it," she said. "How is this really a better system? When you look at sustaining quality in any system, you must have people who are actually doing the work feel like they have influence and value."

Principals and teachers today "have tons of responsibility and accountability, but very little authority," Payne said, noting new restrictions on how schools spend per-pupil funding and mandated curricula. "What we have now, frankly, is a system that develops people to become compliance officers" rather than the leaders campuses need.

"The whole approach at state and district offices needs to ask 'How do we support schools?,' not just 'How do we monitor schools?' ... That's the big shift that we need to make ... that's the model of visionary leadership we have to embrace," said Payne, emphasizing that EIH wants to partner with the DOE to advance school empowerment.⁴³³

Description of the problem by Christine Donnelly:

The call for school empowerment has intensified over the past year, as dictates by the federal government and the state Department of Education galvanized some principals and teachers to warn that students will suffer as local communities lose control of their neighborhood schools.

Hawaii's public education system has always been more centralized than most states, thanks to having a single school district that ensures funding equity statewide but also imposes a bureaucracy For a decade through the turn of the 21st century, though, Hawaii had been taking steps to give principals, teachers and school-based councils, which included parents, more authority over campus operations. In 2004, the state Legislature passed Act 51, the Reinventing Education Act, to catalyze the movement.

Progress stalled, however, especially with the advent of powerful U.S. laws such as No Child Left Behind, which emphasized students' standardized test scores as the arbiter of school achievement, and later through Race to the Top, a competitive grant under which Hawaii's DOE accepted federal mandates in exchange for \$75 million in funding over five years.

The RTT grant expired this year, but its top-down, cookie-cutter mentality remains, lament critics who are trying to reinvigorate the empowerment movement. Their effort includes sharing with educators, school board members, students, parents, the business community and the general public why they believe the philosophy known variously as decentralization, site-based decision making or school-based budgeting remains the route to sustained success.

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Description of School Empowerment:

School empowerment recognizes the uniqueness of each school community and that one size rarely fits all, which makes it nearly the opposite of Hawaii's current governance structure and management mentality.

⁴³³ Christine Donnelly, Power to the Schools: A new think tank wants principals and teachers in charge, with the state Department of Education serving a supporting role, Honolulu Star-Advertiser, Nov. 23, 2014, at **

An empowered-schools system requires a philosophical shift in which DOE employees fall into either of only two categories: those who work directly with students, and those who support the efforts of those who work directly with students.

Teachers in an empowered school determine the means by which to satisfy statewide standards and policies. They also have ready access to information about their school's budget and have a voice in all important matters affecting their respective school. And they play a meaningful role in holding their principal and other administrators accountable.

Principals have significantly greater control over financial and staffing decisions in empowered schools, but they must constantly engage the entire school community — teachers, parents, librarians, cafeteria workers, custodians, and anyone else who sees the students daily — in meaningful discussions about spending, staffing, and curricular and instructional decisions.

Students in empowered schools have a voice that increases from elementary through high school, and student aspirations beyond high school determine student-centered learning programs in which learner empowerment and learner accountability are aligned and emphasized.

Statewide standards, policies and learning goals continue to play major roles in an empowered-schools system, and non-school staff continues to provide services to the schools. But those who set standards and promulgate policy never control the means by which school-level personnel achieve desired results, and services providers cannot take for granted their "customers." School-level personnel unhappy with services provided by the DOE have the option of seeking those services elsewhere.

The adults in an empowered-schools system of public education model shared values such as collaboration, transparency, integrity, equity and life-long learning. They also embrace clarity of responsibility for student success, and maintain a system-wide commitment to capacity-building for instructional and other forms of leadership.

Empowerment and accountability in an empowered-schools system must always be aligned: accountability without empowerment would be unfair and ineffective, and empowerment without accountability would lead to chaos.

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Story of EIH, the delegation, and the trip:

The Education Institute of Hawaii (EIH) sent a 27-person delegation to observe the governance structures of the school systems in Los Angeles, Las Vega and Edmonton a year ago last October. The group included members of the BOE, assistant superintendents and other senior administrators in the DOE's central office, complex area superintendents, award-winning school principals, award-winning teachers, parent-advocates, school community council members, an official of the teachers union, and several members of the EIH board. EIH worked closely with Superintendent Matayoshi and BOE chair Horner in selecting individuals who had earned the trust and respect of their peers for being knowledgeable and open-minded. The delegation met

several times before leaving on the trip, and gathered each evening during the trip for debriefing sessions, the last of which lasted five hours.

These Q&A about the trip had been provided to the delegation and the media prior to the trip:

What is the purpose of the trip? The purpose of the trip is to learn about other public school systems that have changed or tried to change their organizational structures. The travelers will seek information about how these systems were once structured; how they are structured now; what the restructuring was intended to accomplish; and the current assessment of people at all levels of the system about the restructuring (e.g., what they like and don't like about the current organizational structure, and especially their thoughts on its relationship, if any, to their goal of providing an outstanding educational opportunity to the children).

Why were Los Angeles, Las Vegas, and Edmonton chosen for the trip? These particular systems were chosen because each has attempted to revamp its governance structure in innovative ways and has been widely recognized for the scope of their reform efforts. Not all of the changes they made worked as intended; some did not

even survive the pilot stage. None of these very different systems has been held out as a model for Hawaii to emulate. The Education Institute believes there is as much to be learned from failures as from the successes.

What was the role and responsibility of the travelers? Members of the delegation have been asked to learn as much as possible about how governance works in these systems, and give special attention to the aspects that might be worth considering for Hawaii. They are also asked to share their thoughts and opinions – whatever those thoughts might be – with as many of their peers and others as is possible after returning home. Members of the delegation will be participating in follow-up activities, including the School Empowerment Conference at Moanalua High School on November 28-29, 2014.

What about ideas that seemingly could never be implemented in Hawaii? Members of the delegation are asked not to discard an otherwise good idea simply because it might be extremely difficult to implement in Hawaii for political reasons. The Education Institute invites them to ask themselves this question when evaluating the innovations in Los Angeles, Las Vegas, and Edmonton: “Assuming that this could be implemented in Hawaii, would it be a good thing to do?”

What is school empowerment? The delegation has already spent a great deal of time trying to develop a common understanding of school empowerment—but has not yet done so. Here is what the Education Institute of Hawaii has provided to them as a suggested starting point prior to the trip:

Accountability is critically important, particularly in a complex organization like Hawaii's DOE. But in any school system, it would be unfair and counterproductive organizationally to try to hold school-level personnel accountable for student outcomes if they lack sufficient control over decisionmaking directly affecting their ability to achieve desired outcomes for their students.

Accordingly, the Education Institute favors involving people at each level in decisions that are designed to achieve the results for which those people will be held accountable. Stated more simply, the goal is to align authority and accountability. School empowerment is possible only when there is transparency (i.e., ready access to relevant information such as the available budget and how it is being spent).

Excerpts from Star-Advertiser editorial,
Oct. 2, 2014, which was several days before the trip:

The birth of a new public-education think tank in Hawaii represents the evolution of thought to action, as critics of Hawaii's centralized Department of Education have galvanized current Board of Education members, DOE administrators, principals and teachers to find out more about reforms that would invest more authority in the educators actually interacting with students and parents at the school level.

The creation of the Education Institute of Hawaii rightly moves the subject of school empowerment squarely into the community realm, expanding a much-needed conversation This renewed focus on decentralizing the state office is overdue.

School empowerment means that the people closest to the students have the most say about how campuses are run. This philosophy aligns authority and accountability, and is achieved only when a school district operates with a high level of transparency, with ready access to information about financial, human and other resources.

[A] diverse 27-member delegation that will spend fall break visiting school districts in Canada, California and Nevada that have reorganized in ways that measurably improve educational outcomes for students — or that have tried and failed to do so.

Learning from others' setbacks may be as instructive as visiting districts that have successfully transformed themselves, especially for educators and administrators from Hawaii, who work for a single, state-funded school district that is unique in structure and the ninth-largest in the nation.

School empowerment efforts have progressed in fits and starts before in Hawaii, but never achieved full flight. The fact-finding mission should quickly bring DOE and BOE leadership up to speed on the importance of ensuring that the central office serves the schools' needs, rather than the other way around, and propelling the broader conversation. To that end, the delegation received some reading material ahead of the Oct. 6-10 trip, "10 Lessons from New York City Schools: What Really Works to Improve Education," which emphasizes how crucial it is to:

- » Invest in leadership
- » Devolve responsibility, resources and authority to schools
- » Make everyone directly responsible for student performance....
- » Partner with the private sector
- » Reform the central office
- » Be bold!

On that penultimate point, the 2013 guide published by Columbia University's Teachers College Press is unequivocal, asserting that "the most egregious error made by superintendents and school reformers is the attempt to reform schools without simultaneously reforming the central office."

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Delegation's unanimous statement: (Honolulu Star-Advertiser on Oct. 30, 2014)

Members of the travel delegation discussed "school empowerment" in pre-trip meetings, but at that time lacked a common understanding of what the term can mean. If someone had asked us then about the need for major reform to Hawaii's Department of Education, our responses would have varied considerably. As explained below, that has changed.

The trip, during Hawaii's fall school break, consisted of wall-to-wall meetings with district officials and school personnel daily, then debriefing sessions each evening. We ate all meals together and grumbled together about the grueling travel schedule.

Yet the 27 of us returned home feeling exhilarated, inspired and empowered by the experience. We have seen, heard and been touched by school empowerment and know that it works to create and support classrooms where students thrive in the empowered learning environment.

A school empowerment system requires a philosophical shift. There become only two categories of workers: those who work directly with students, and those who support the efforts of those who work directly with students.

In short, everyone's primary job is to ensure a quality education for every child. School empowerment recognizes the uniqueness of each school community and understands that one size rarely fits all.

For each principal, school empowerment means more than just greater control over financial and staffing decisions. It also means engaging the entire school community—teachers, parents, librarians, cafeteria workers, custodians, everyone who see the students daily—in meaningful discussions about spending, staffing, and curricular and instructional decisions.

Empowered schools model shared values such as collaboration, transparency, integrity, equity and life-long learning. They embrace clarity of responsibility and accountability for their decisions, especially those that focus on student achievement.

Statewide policies and standards continue to be necessary, and support services continue to be provided by support staff outside the schools when that promotes effectiveness and efficiency. There also must be a systemwide commitment to capacity-building for both instructional and non-instructional leadership. And work in the state DOE continues to be critically important in providing the high-quality education deserved by every student.

But because the schools are where teachers and students interact on a daily basis, we support a carefully thought-out process giving school-level personnel more power than they currently have over resource allocation and instructional decisions, along with mechanisms to ensure accountability.

Empowerment and accountability must go hand-in-hand and be properly aligned. For example, it would not be fair (or effective) to hold school-level personnel accountable for results without first empowering them to achieve the desired results.

The timing for school empowerment is good. Each of Hawaii's four gubernatorial candidates has talked favorably about it, and the new governor will fill vacancies on the school board as they occur.

School empowerment is multifaceted and nuanced, but we are pleased that the next governor is on record as wanting to see the existing system move in the direction that we have described generally in this commentary. We, and many others, stand ready to actively engage in this positive process for our children's sake.

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More from Donnelly re Joan Lewis and parent quote:

Lewis, who considers the funding equity inherent in Hawaii's statewide school system "essential, now and moving forward," appreciated that employees of empowered districts were trusted as professionals capable of guiding students to meet high expectations. "The entire staff was committed fully" to the school's mission, and higher-ups supported the credo of "your end, my means" — meaning that a state or district office could set standards but not dictate how individual schools met them. Such flexibility frees schools to do right by their unique communities, Lewis said, which on some campuses might mean investing in laptops or other instructional technology, rather than a standardized curriculum.

The risk of stifling creativity and institutionalizing "sameness," as opposed to equity, is a rising concern nationally in the Common Core era. Such uniformity is easier to achieve here than in most states, given that only Hawaii has a single school district and the central authority that goes with it (in the form of the DOE, and its overseer, the BOE.)

"This is something that parents are thinking about," said Lois Yamauchi, president of the advocacy group Parents for Public Schools. Yamauchi was dismayed that the same curriculum was mandated for the whole state. "It's not that this particular curriculum is bad. It's a fine curriculum. It's just that I think that it takes away from the school community making decisions about what is right for their kids," said Yamauchi, who looks forward to hearing more from EIH about school empowerment.

"We have a lot of confidence in the schools, in the educators in particular. We welcome any effort that invests more authority in the school itself, the teacher and principals, to act in the best interests of their students," said Yamauchi. "Over and over again, when we ask families who

have children in the public schools what they love about their schools, they say it's the teachers and they say it's the principals. We're advocating for those folks at the school level."

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The 2014 principals survey:

It would make little sense to “transform” a system that is working well, but there is no one, agreed-upon way to determine whether a system is working well. EIH believes a good starting point is to seek input from school-level educators. Do they think the system is working well? With that as the overarching goal, EIH surveyed DOE principals in 2014 and again in 2015. The complete results of both surveys (as mentioned in the above news article) can be found at EIH’s website (<http://www.edthinktankhawaii.org>). Here’s how the Star-Advertiser described the results of the first principals survey in its news coverage on May 15, 2014:

An overwhelming majority of public school principals who responded to an independent survey about their working conditions say they lack the needed support and autonomy to act in the best interests of their schools, but hesitate to speak out for fear of retaliation.

The school leaders say their ability to make decisions at the school level has been stymied by "top-down" management by the Department of Education, and that sweeping academic reforms the state pledged for its federal Race to the Top grant have dragged down morale at their schools.

The anonymous survey was conducted last month A total of 160 principals responded, representing 63 percent of the principals leading the state's 255 public schools. The survey found in part:

- » 64.4 percent feel less empowered to implement decisions to help their schools.
- » 87.7 percent say they don't have a "system of support" as required by their collective bargaining agreement.
- » 75.5 percent feel the implementation of Race to the Top reforms, especially the new performance-based evaluation system for teachers, has negatively impacted their schools.
- » 94 percent feel the teacher evaluations have negatively affected morale.
- » 65.5 percent of principals state that they are not able to express their concerns for fear of reprisal or retaliation.

.... The survey was done informally and anonymously using principals' personal email addresses
....

"I think principals are crying out," said John Sosa, 71, who retired from Kaiser High School at year-end after 44 years with the DOE. "Study after study after study says empowering schools is really where the change occurs." The state Legislature aimed to do just that a decade ago when in

2004 it passed the education-reform law known as Act 51, which in part gave principals more control over school-level spending.

"Today, 10 years later, things are almost in the total opposite direction. The school system is more centralized, principals are less empowered and that definitely has an impact on student learning," EIH Executive Director Darrel Galera said. "Things won't change until we change the system so that it's not top-down with everyone having to fit into a one-size-fits-all approach. Every community is unique and very diverse."

Galera acknowledged the recent academic reforms may be well-intended, but "if the changes become more important than the people in the system, it's going to be counterproductive. In leadership we talk about establishing a positive culture where people feel creative and inspired to work. That's what I think we need."

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The 2015 principals survey:

EIH surveyed DOE principals again in March of 2015. The following is from the Star-Advertiser's coverage, which appeared on March 19, 2015:

Most Hawaii public school principals say they still lack the needed support and flexibility to act in the best interests of their schools and students, according to survey results released this week by the Education Institute of Hawaii that mirror widespread concerns raised in a similar survey conducted last year.

Principals say the Department of Education's leadership too often imposes one-size-fits-all reforms that have dampened school morale, citing as examples the implementation of a common set of learning standards across all schools and high-stakes teacher evaluations.

The anonymous survey was conducted via personal email addresses from Feb. 28 to March 15 by the education think tank, the mission of which is to empower principals, teachers, parents and communities to better serve students. Although the published responses are anonymous, each respondent was required to identify herself or himself in order to participate.

A total of 144 principals responded, representing 56 percent of the principals leading the state's 256 public schools. The Education Institute of Hawaii, with a board of directors that includes former DOE executives and educators, found, in part:

- » Only 1 in 6 school leaders consider schools "empowered to an appropriate degree."
- » Eighty-one percent of principals say they are made to feel like compliance officers rather than leaders.
- » Eighty-seven percent of principals say school-level personnel should be able to control the means by which statewide standards and policies are achieved.

» Forty-seven percent of principals say they cannot express concerns or critiques about DOE policies and practices without fear of reprisal, retaliation, or of being unfairly evaluated.

.... "Making systemic progress for our students and educators have come with a lot of growing pains," DOE spokeswoman Donalyn Dela Cruz said by email. "However, we see that children are learning and achieving more and at a higher level of learning. Our focus is to learn from these growing pains, overcome them and continue to do what's right for our students' future."

Dela Cruz said the department solicits feedback from school leaders year-round about student achievement goals and workload issues to help inform decisions and make needed adjustments.

Education Institute of Hawaii President Roberta Mayor, a former educator and executive in the Hawaii and California public school systems, says principals need more decision-making power.

"School principals really have a very important and difficult job. They're trying to do what's right for kids, they're trying to work with their personnel and also need to marshal their financial resources to try to provide the best education for students," said Mayor, who served as superintendent of the Oakland Unified School District, by telephone Wednesday.

"But they don't always have the authority that goes with the responsibility. They're not able to make the kinds of decisions about how best to utilize their resources," she added. "I think if they had the ability to do that to a greater extent, they would feel more empowered."

Ray L'Heureux, vice president of the Education Institute of Hawaii and a former DOE assistant superintendent, says Hawaii's public school system is too centralized.

"Principals need more leeway to make decisions that are the best fit for their schools and communities," L'Heureux said in a phone interview Wednesday. "We need pathways to get to that point, but with a school district as large as ours — ninth largest in the country — and a central office that, in my opinion, is dysfunctional, it's going to be tough to get there."

He and Mayor say the point of the survey is to increase public awareness to help effect positive changes.....

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Payne commentary (Jan. 24):

I have worked in and around the Department of Education for more than 40 years, as a teacher, vice principal and principal. I now serve as a volunteer commissioner for the Hawaii Public Charter School Commission, and as a consultant helping elementary schools prepare for their first accreditation.

Despite all the substantial support I received from colleagues and supervisors, it has always been my students who truly shaped me as an educator. It troubles me greatly that it is the students who

are destined to suffer the consequences of what I perceive to be a newly minted dysfunctional system of public education in Hawaii.

It began with top-down dictates that were supposed to send us “racing to the top” in a few short years. The package of reforms included national standards, a dramatic increase in non-diagnostic standardized testing, and high-stakes formulative assessment mechanisms for principals and teachers. The word from above was, “Do exactly what we tell you to do, or else.”

Curriculum decisions traditionally made by teams of classroom teachers are now routinely made by experts from central administration and national consulting firms. Never mind the unique needs of a particular school. Professional educators in the schools have lost almost all autonomy in decisionmaking about the core mission of providing instruction to students.

Even worse, schools have increasingly and predictably restructured around non- diagnostic, standardized testing schedules. Subject areas that cannot be tested this way are de-emphasized, even eliminated. Life in the schools now revolves around the next test. Even kindergarten teachers are doing “test prep” with their students.

Principals are spending countless days in training sessions, learning little more than how to comply with the new dictates. Gone is training in instructional leadership — or any kind of leadership. In some schools relationships have become fractured because of a bureaucratic expectation that things “just get done” — never mind that the teachers and principals believe that the changes are disserving the children.

Most frightening to me is that the system has increasingly been recruiting, training and managing new principals in a top-down, command-and-control brand of management.

I worry that we are forgetting that public education is all about people; it is not a business. Children are precious; they should never be treated like widgets on an assembly line.

A great education begins with well-rounded teachers who model in their own actions the skills and characteristics they would like students to develop. Yet top-down management is disempowering school-level professionals and punishing them for anything but blind compliance. This creates a follow-the-script culture in the schools that is the exact opposite of what we should be modeling for the children.

The children see how principals and teachers work with one another, and they sense when adults are saying one thing — “be inquisitive, think critically and take personal responsibility” — but then meekly function in a dysfunctional system that disrespects them and limits their ability to do what they know is best for their students.

There is reason for hope, however: Congress has just passed legislation affecting our nation’s public schools and especially the federal government’s control over public education at the state and district levels. It is an opportunity to shift our mindset from “The feds are making us do it” to “What can we do that will be most meaningful for our students?”

Plus, we now have a governor and chairman of the state Board of Education who both recognize that a wrong turn was taken, and that corrective action begins with school empowerment.

Now is the time to recognize that educational leadership is not power over schools and students. Rather, it is giving power to those in schools to make the decisions that work best for the students in each unique school.

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EIH foundational beliefs:

Some possible foundational beliefs:

- The overwhelming majority of public school teachers, principals and other administrators are competent professionals, fully committed to facilitating an outstanding education for every child.
- An unacceptable number of children are not thriving in the current system.
- An unacceptable number of the educators are not thriving in the current system.
- Members of an individual school community, including the students, cannot thrive when day-to-day functions are controlled far from the school, and one-size-fits-all instructional policies prevent teachers and principals from addressing the unique needs of that community and those students.
- Any improvement in the education system will be sustainable only if school personnel feel some level of ownership of the new structure—as well as the responsibility that goes with ownership.
- The pursuit of any changes to the existing system should be research-based and reflect best practices.

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Strembitsky in Nevada:

The Nevada state legislature and Clark County School District are working with Mike Strembitsky to transform CCSD into an empowered schools system by next year (academic year 2017-18). The following Plan was approved on July 1, 2016:

The plan proposed to reorganize the Clark County School District set forth in this document provides a completely different management structure and culture for the Clark County School District (CCSD) than that which exists today. The plan envisions turning the present administrative structure upside down or, more accurately, right-side up, with the schools becoming front and center, at the heart of the operation of the school district. The plan calls for extensive involvement of the frontline staff and the community in decision making. The plan further makes staff accountable for the results which flow from the decisions they make. Concomitantly, and of equal importance, the school district is charged with providing the framework and structure in which the schools function to achieve their results.

The Proposal. The responsibilities of schools must be clearly defined and the resources to achieve those responsibilities must also be assigned for planning and budgeting to the individual schools. Similarly, the responsibilities of the different offices of the central administration of the school district must be clearly defined and the resources to achieve those responsibilities must be assigned for planning and budgeting to those offices. Measures must be put into place to ensure schools and the central administration of the school district perform well and are accountable for their performance.

The Requirements. The provision of information is critical in an operation which is based on wide participation of frontline staff, parents and members of the community. Transparency and timeliness of information and operation is critical to achieve informed involvement of stakeholders.

The Change Process. Because of the successful pilot program with empowerment schools that was carried out in CCSD, it is not necessary to create another pilot program. Rather, the organization of the school district must facilitate the operation of the schools within the district as autonomous schools. An incremental change of schools within the CCSD to autonomous schools would likely fail. Therefore, this plan anticipates a complete change in the CCSD so that all schools within CCSD are given autonomy similar to the autonomy which was provided to empowerment schools at the same time. In addition, each school will act as a local school precinct as anticipated in Assembly Bill No. 394.

The Timeline. Changing the school district requires considerable planning and the installation of infrastructure to support the new structure under which CCSD will operate. Nevertheless, the change must happen expeditiously to avoid delays. To carry out the changes proposed in this plan, there must be a willingness and urgency to carry out the change. After consideration of the factors that would most likely result in a successful district-wide implementation, the recommendation is to carry out the plan district-wide beginning with the 2017-18 School Year.

The Reorganization. This reorganization plan deals with three principle structural components of the district: The Principalship, the Superintendency, and Central Services and their interrelationships.

The Principalship. In terms of accountability, the school principal is responsible for the entire school operation. However, a successful school consists of much more than a one person operation. The successful principal must reach out and embrace the involvement and contribution of staff, students, parents and community. Together the group provides much more than anyone person could accomplish alone. Some of that involvement can be mandated, such as school organizational teams which are created for schools, but there is much more to a successful school than what is mandated. Successful schools radiate a culture of involvement that permeates their everyday operation and interactions with others.

The Superintendency. The Superintendency refers to a concept wherein the Superintendent and his or her immediate staff share a common interest in the successful operation of the school district. For this to take place, the staff who are most likely to share this common interest are

those who are responsible for the schools. If the staff assisting the Superintendent represent individual departments and not schools, they are less likely to think at the district level than are those who are responsible for the schools. Because the Superintendent must focus on the schools, the people working with the Superintendent must share that focus. The Superintendent must understand the needs of the schools when considering and making decisions. Accordingly, this plan includes a recommendation that the Superintendent meet regularly with the school associate superintendents (see below) and any other staff members who work with the principals of the schools in the school district.

Principalship-Superintendency Linkage. In a system in which individual schools exercise such a prominent role, accountability of the schools to the district is achieved by a tight coupling of the school to the Superintendent through a single staff member within the central administration who is responsible for both support and supervision of schools. Each of these staff members is responsible for a specific number of assigned schools not to exceed 25 schools. The entire responsibility of this staff person is to ensure the performance of the group of schools assigned to that staff person. With this revision to the central administration, the schools no longer have multiple supervisors within the central administration. This governance structure removes the need to create an intermediate level of bureaucracy, commonly referred to as regionalization. The role and responsibility of this staff person in the reorganization would redefine the current structure of the CCSD which relies on Assistant Chiefs. Instead, this plan recommends that a new position be created with the title of School Associate Superintendent. This title reflects the dual nature of the person's responsibility for the schools and working with the Superintendent.

The Central Services. Some functions currently carried out by the central administration will be transferred to local school precincts to carry out, or to purchase. With the transfer of certain day-to-day decisions to the schools, the central administration will be able to focus on performing the tasks remaining at the district level. For the services that are not assigned to be carried out by the schools, the central administration must align its resources to the staff that has responsibility for providing services to ensure that the central administration is able to provide the services to the schools. Instead of referring to central administration, this group of staff should be referred to as the Central Services of the CCSD. Central Services must be treated as an entity separate and distinct from the Superintendency. Although still accountable to the superintendent, Central Services must be assigned the responsibility to plan and budget and must be held accountable for the conduct of its operations. Central Services will render certain district services to all of the local school precincts. These services include things such as payroll, negotiations, human resources (other than assigning personnel to particular schools) and accounting. In addition, with this approach, Central Services will establish coherent expectations for schools, plan better allocation of resources, provide for measuring outcomes of pupils, provide requested in-services, develop support systems, establish protocols for items such as outsourcing and school-to-pay for services and formulate policies for consideration of the Board.

Central Services will likely be faced with certain challenges when it converts to operating in the manner described in this plan. For example, when responsibilities and resources devolve to the school level, certain services which become the responsibility of the school may be best provided by someone outside the school. Experience shows that after schools receive their allocations of money, the schools begin to look for "free" services that may be obtained from Central Services.

The demand for "free" services increases, thereby creating an ever increasing demand for more free services. This increasing demand, however, only happens when the service is subject to elasticity in demand. When there is no elasticity, the demand does not often grow. For example, the act of issuing paychecks does not provide any elasticity of demand because there are only so many payroll checks to be written. On the other hand, if Central Services offers consultants in language arts, schools may experience increasing demand for such consultants. The solution to this type of situation is to create a market-driven operation in which the requests by schools for services from the Central Services are made on a "school-to-pay" basis, meaning that money is allocated to the school must be budgeted by the school for the services. Thus, resources that previously funded the provision of those "free" services must be reallocated to the schools so the school may determine whether it is important enough to budget for the service, or whether to use the money allocated in another manner. In this way, the schools are able to use money allocated in the most efficient manner rather than just grabbing for free services.

The Schools. With an autonomous model, individual schools are moved to the front and center, at the heart of the school district's operations. Each school is placed in a unique position to respond to local circumstances, provide an arena for the creative and innovative talent of staff and accept ownership for the education of the children in they are charged with serving. Operating in this manner makes it easier to identify problems and provide direct solutions.

There are several advantages to the schools with this model. The schools can resolve issues without having to go through various district offices. The surrounding community more readily identifies with the school. The operation of the school is much more easily understood than the operation of an entire school district. The school also provides an easy entry point for parents to make a difference and become meaningfully involved in its success.

With only one supervisor to oversee each school (the School Associate Superintendent) rather than multiple supervisors from independent offices, the work flow of assignments is monitored much more easily. In addition, the School Associate Superintendent is responsible for ensuring that the responsibilities assigned to the schools are turned in on time. As a result, Central Services will operate much more efficiently.

Principles of Organization. To successfully carry out this plan, CCSD must have a clearly defined organizational plan coupled with a staff that shares the cultural values of the district. Given a supportive structure, effectiveness will depend largely on the commitment and motivation of the staff. The Superintendent must approve an explicit set of principles designed to communicate the manner in which all staff are expected to perform. These Principles of Organization need to be developed, internalized and approved as a district position.

Surveys. The results of surveys provide a powerful tool to achieve better performance. The effectiveness of surveys, in large measure, depends on the rigor of design, the response rate, and the follow-up actions. Surveys should be administered annually toward the end of the school year. Groups surveyed should include students, staff, parents and the community. To ensure that follow-up actions may be taken, the information collected from surveys needs to be separated by individual schools and units of the Central Services. All results must be made public and reported separately for schools, for organizational groupings of Central Services and the district.

Training for District-wide Implementation. Successful implementation of this plan will depend upon the preparation and training of the staff most directly involved in the transition, including staff of the Central Services as well as in the schools. Because training must precede implementation, the training must begin during the 2016-2017 School Year. The training program must be based on real situations that will be encountered in the actual implementation of operating autonomous schools throughout the district. The training provided must be consistent from the Superintendent to the individual staff members in the schools and the Central Services.

The training is to be provided using a pyramidal model which begins with training at the top of the organization and spiraling downward and provided in related groups. For example, the supervisor and the persons supervised by the supervisor should be trained together to ensure agreement on commitments and ensure consistency in practice.

The Superintendent and the School Associate Superintendents must be trained first. During the training, the Superintendent may choose to have the group assisted by a facilitator who has expertise in the operation of autonomous schools. Successful implementation relies upon establishing a common understanding of the principles of organization, acceptance of those principles and consistency in implementation by the Superintendent and the School Associate Superintendents. Different points of view may be expressed and deliberated during training, but once the group establishes a common understanding, the debate must end. Successful implementation requires consistency and adherence to the requirements established and agreed upon during the training.

Once properly trained, each School Associate Superintendent is responsible to lead the training of the principals of the schools assigned to them regarding the requirements for operating as a principal in an autonomous school model. Associates, having completed the training, will be prepared to provide the training to the principals without the assistance of a facilitator. If the Associate does seek the assistance of a facilitator, it is important that the Associate and the principal reach a common understanding and acceptance of the autonomous school model. After training, facilitators are no longer present and ownership for successful implementation rests with the principal and School Associate Superintendent who remain responsible for results of the school. It is very important that the requirements established apply equally to all members of the group, the supervisor and supervised. There is no hierarchy and any member has the right to call out a member who violates the requirements that have been agreed upon. This acceptance is a true test of an organization's culture.

After the principals complete the training, the principals are responsible for communicating and arriving at a common understanding of the autonomous school model within their school communities. An on-going program must be made available at the school which involves staff to ensure they understand the opportunities available to them at the school to participate in decision making. Likewise, an outreach program must be in place to inform parents about the autonomous school model and the opportunities available to them to participate as part of an organizational team which advises and assists the principal in developing a budgetary plan for the school.

School Program Planning and Budgeting. The core principle of this plan for the reorganization of the management of CCSD is establishing responsibility of schools for results and aligning resources to the responsibility. This is a large undertaking and will be revised and clarified over time. As that occurs and the system begins to operate more effectively, additional responsibilities and corresponding allocations of money will be made to the schools that previously were held by the central administration of the school district. In the first year, at a minimum, the school must be assigned the responsibility of budgeting for the staff at the school as well as for equipment, services and supplies. The schools will become more successful and efficient at budgeting as more responsibility for budgeting is transferred to the schools from previous central budgets. When schools are not assigned the responsibility of budgeting for the needs of the schools, planning by the schools is extremely difficult. Further, when schools lack control over their budgets, they continually seek to access funds and services available through the Central Services rather than planning efficiently and independently for their actual needs.

Once the school responsibilities are defined and the dollars assigned, the task of distributing the resources to the schools requires the development of allocation algorithms. This plan proposes a "Weighted Student Formula" (WSF) which is based upon students and other identified factors. In the development of the WSF, the goal is to distribute the existing available funds to the schools in an equitable manner. The WSF eliminates the thresholds that are inherent in a system in which an additional student determines whether a school becomes entitled to a full-time counselor or at another level an additional student results in an additional administrator at the school.

The initial development of the WSF must be based on the equitable distribution of funds existing in each of the following groups: elementary school, middle school, junior high school, high school, and identifiable learning groups. Whether to assign greater weight to a particular group is a separate consideration. One of the real benefits of the WSF is that the system is less complicated and easier to understand, thereby providing for more informed involvement by staff and parents. Another benefit of the WSF is that it becomes easier to identify whether any group is receiving special treatment. Equally, it becomes more clear whether lower socioeconomic neighborhood schools are underfunded or overfunded. With this information available, value judgments and decisions are more likely to be made on a rational basis rather than on bias.

Initially, the WSF formula will be submitted to and approved by the Department of Education. Ultimately, the WSF will mirror the formula established for the state unless the district receives permission from the Department of Education to apply a different formula.

The process used by the school to develop the school budget must include involving the wider school community. The form of that involvement must be communicated to staff and the community. Part of that process must include communicating the amount of money that is allocated to the school and the budget decisions that are made for the school. The process must include holding a public meeting to present the proposed budget.

School budgets must be established early to eliminate surprises and must be balanced within the amount of the allocation made to the school. Allocations will be reconciled to actual state count

enrollments. School year-end balances will be carried forward and therefore will remain accessible to the school.

Staff Costs for Schools. Historically, school districts have staffed schools on the basis of full time equivalents, referred to as FTEs. Staffing decisions have been made on the basis of obtaining the best teacher for the available position, regardless of salary. Because the autonomous school model converts all resources to dollars, if schools were required to determine staff based on actual salaries, marked variation could exist in the cost to individual schools based on the composition of their staff in terms of training and experience.

The argument for using actual salaries is that it is simple and low salary schools would be able to get more staff with lower class sizes and other benefits may accrue to the school. The argument against using actual salaries, however, is that the maximum salaries are more than double the minimum salary and it would be impractical to implement such a variation based on actual salaries. No one argues that teachers receiving the maximum salary represent twice the value of teachers receiving the minimum salary. In addition, no one argues that teachers who receive the maximum salary should have twice the class size of teachers who receive the minimum salary.

There is not a lot of correlation between salary and teacher effectiveness. Furthermore, in making staffing decisions, a school should select the best teacher available for the position without compromising the decision based on salary. Attempts by schools that operate under this model to use actual salaries have not proven to be sustainable and have created administrative pressure to move teachers to other schools for the sole purpose of attempting to equalize salaries within a narrow range. Using actual salaries also does not solve the problem of attracting quality teachers to schools which are considered difficult assignments.

When CCSD operated the pilot program which made certain schools within the district empowerment schools, the district successfully used the average unit cost for each year of the program. For these reasons, this plan recommends using the average unit cost.

Central Services Program Planning and Budgeting. Budgets for the services provided by Central Services should be developed on a modified zero-based model. This is especially important since many of these budget units previously budgeted funds for the schools.

Developing a modified zero-based budget provides transparency as to what responsibilities remain in each of the budgets of the various departments of the Central Services. Central Services budgets are not based on an allocative system. Costs are based on actuals with no provision for carry forward.

The form of modified zero-based budgeting needs to be defined by the district. Modified zero-based budgeting usually is planned on a minimum threshold of 80 to 85 percent of the previous year's budget as the base with provision to add individual standalone incremental packages not exceeding 10 percent.

Parental and Community Engagement. The mindset of the Principalship discussed above embraces the contribution of parents and the community. Parental and community involvement

must become intertwined in the culture of the school and integral to the operation of the school. The principal of the school must be responsible for creating this culture at the school.

Appeal Process. If the community does not approve of the budget plan developed by a principal for the school, there must be a manner in which to appeal. First, this plan calls for transparency, so the budget plan developed by the principal must be explained in a public meeting where members of the public have an opportunity to comment and make suggestions. If those suggestions are not adopted, there must be a process by which an appeal may be taken to the Associate School Superintendent. An organizational team must be established for the school which consists of teachers, administrative staff and parents or guardians of pupils at the school. This team must have authority to appeal decisions of the principal to the Associate Superintendent.

Principal Selection. School staff and communities are very helpful at identifying the needs for their school when a principal vacancy occurs, but not been very successful at selecting the principal from a list of applicants. All too often, interviews are not an effective selection process. Additionally, information on the past performance of candidates and other personnel information may not be available to the community at large. The person in the district who should make the decision about the appointment of the principal is the person who will be responsible for removing the principal if the principal's performance is unsatisfactory. After making the appointment, the person who appointed the principal is accountable to the staff and community for competent leadership at the school.

School Year Operational Cycle. Whereas the existing operation places a premium on problem solving, the proposed plan instead requires much wider school involvement and considerable advanced planning. This wider involvement, both in the schools and the Central Services, in the program planning and budgeting necessitates even more attention to timelines in order to meet critical commitments. Efficient operation of a school requires constant planning and communicating regarding events, dates and responsibilities. Such planning must be completed before the school year, during the school year and reviewed at the end of the cycle. Though the operational school year is 1 year, the entire planning and operating cycle is 2 years.

Another aspect of the 2-year cycle is the overlap of school years. While one school year is being planned, another is being carried out. This means that major changes in initiatives and priorities, as a result of the review of one year's results are then included in the planning for the following year rather than in the current year which is already in operation.

Transition Costs. The reorganization described in this plan will have certain costs associated with it, especially for training and infrastructure. The amount of such costs that will be incurred is not fully understood at this time. However, whatever the cost, the plan will be cost neutral as resources will be reallocated within the CCSD.

In addition, there will be significant savings to the CCSD from restructuring responsibilities within the central administration and more efficient spending by schools. In the end, the CCSD will have an organizational structure that supports a system which focuses on the actual needs of each individual school, provides transparency in budgeting and spending, encourages more

efficient and effective budgetary decisions, and places more money in the schools to provide programming and services for pupils.

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[*next explain that Ige jumped on that wave and got elected.]

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[*use this with ESSA Task Force section: Well the Every Student Succeeds Act is that huge pendulum swing the other way. ESSA gives us the opportunity to start with a clean sheet of paper and really think about what's important in our public school system. The limitations are only those we set on the system. It's about believing and doing what we need to do to really deliver the public education system that our students deserve. We want to be able to challenge everything that we do and make sure we are really doing the things that make a difference in the classroom.]

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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.”⁴³⁴

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.”⁴³⁵ Hawaii's highly centralized system has concentrated enormous amounts of power in the hands of a relative few, and they are determined 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.

⁴³⁴ Interview of Governor Benjamin Cayetano by Randall Roth, Aug. 14, 2009.

⁴³⁵ 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.