

OVERVIEW

Study on the Appropriate Accountability Structure of the Hawai'i Teacher Standards Board

Report No. 09-05, February 2009

Summary

In response to Senate Concurrent Resolution No. 83, Senate Draft 1, we conducted this study of the Hawai'i Teacher Standards Board. The 2008 Legislature asked us to examine issues of accountability and oversight; thus, we focused on determining whether the board has delivered an effective licensing and re-licensing program—its core function. The resolution identified the Department of Commerce and Consumer Affairs (DCCA) as the model for boards and commissions administratively attached to an agency. So we compared that model with the standards board and examined other states for alternatives for licensing programs.

Our study found that the Hawai'i Teacher Standards Board is in a state of confusion, unable to develop, administer, and deliver an effective teacher licensing program. The board's failure jeopardizes federal funding for the Department of Education (DOE), which is struggling to meet the requirements of the federal No Child Left Behind Act of 2001 (NCLB). The board has not applied new standards to teachers seeking an initial license. Moreover, the executive director assumed the board's authority to approve new or initial licenses, which clouds the validity of approximately 3,800 licenses issued since 2003. Further, the board has no rules and procedures for appeals.

Seven years after assuming the licensing function, the board has neither an effective initial or renewal licensing program in place. The board exceeded its authority in extending licenses beyond the original authorization. It has been granting license *extensions* rather than *renewing* licenses beyond the two years set by the 2001 Legislature.

Without the statutory basis to extend licenses beyond 2003, the administrative rules extending licenses expiring in 2005, 2006, and 2007 are invalid. Furthermore, the board's amended rules omit licenses expiring in 2004 and, thus, those could not receive an extension, have expired, and are rendered invalid. Because state laws require DOE teachers to be licensed, any teachers holding invalid licenses would be considered emergency hires and not highly qualified according to NCLB requirements.

A lack of oversight and poor management of two sole source contracts to develop an online application system have resulted in a waste of more than \$1 million in teacher licensing fees. The board's system contractor still has not delivered the online system and has, in fact, usurped the board's access to its licensing database.

The board's designation as an administratively attached agency has contributed to the lack of accountability and oversight. The executive director and the DOE



each believes the other is responsible and accountable for certain financial and administrative responsibilities. Without a clear delineation of authority, the board has operated as an autonomous entity, void of any oversight by either the Board of Education or the DOE.

Finally, we found that placement of the board within the DCCA is contrary to regulatory policies set forth in the Hawai'i Regulatory Licensing Reform Act, Chapter 26H, HRS. The teacher licensure program departs from state regulatory policies as it was purposefully "designed to enhance the profession of teaching" and promote teacher quality rather than to protect the consumer from harm. The standards board's licensure program applies to and penalizes the public employer, the Board of Education, for employees of the DOE. Unlike other professions that are required to obtain a license to practice, not all teachers in Hawai'i are required to obtain a license from the board to practice their occupation. The DCCA director wrote that placement of the standards board within the DCCA would be "[a] poor fit . . . particularly in light of what appear to be important differences in approach toward implementing licensing regulation. . ."

The 2001 Legislature transferred licensing duties from the DOE to an "independent" teacher standards board because of a perceived conflict of interest in the department's dual role as employer and licensing agent. We conclude that creating an independent body composed mostly of teachers employed by the DOE with more than a consumer protection mission has not yielded sufficient benefits for the teaching profession and students it was meant to serve to warrant its continuation.

Recommendations and Response

We recommend that the laws governing the standards board be repealed, in part, and modified, in part, to transfer responsibility for administering a teacher licensure program from the Hawai'i Teacher Standards Board to the Board of Education.

The department and Board of Education opted not to provide responses. The standards board provided extensive comments and also provided information to clarify a number of points, which neither contradict nor change our findings and recommendations. While the standards board noted that there is a need to improve, it did not agree with our recommendations. The board's responses do not address one of the report's key findings—that the board has failed to develop, administer, and deliver on its core mission, an effective teacher licensing program. As such, we stand by our report.

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