

March 14, 2013

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STATE OF HAWAII
STATE ETHICS COMMISSION

To Commission Members:

Re: Charge No. 13-Cg-2

This is my attempt to provide a written response to the charges made in Charge No. 13-Cg-2.

I am the principal of Myron B. Thompson Academy, a hybrid online-on ground home-based public charter school that provides education to students in grades K-12 on Oahu, Hawaii, Kauai and Maui. In addition, MBTA provides credit recovery and accelerated courses to other public school students through the Thompson Extension Academy (TEA). The (non-compensated, free) student enrollment of this program fluctuates between 300 to 600 additional students each year.

The vision of Myron B. Thompson Academy is to create an innovative, student-centered learning environment that provides equity, access and excellence for learners anywhere, anytime. This translates to access to curriculum 24/7. Secondary student learning and elementary parent correspondence and active chat takes place well into the evening and often very early in the morning. The educational environment is very non-traditional and the delivery of instruction is asynchronous and synchronous depending on the discipline, project or assessment being used. Consequently, the working schedules of all instructional and administrative personnel must be flexible and geared to the individual and collective needs of our students. Courses, instruction and administrative supervision of staff and programs are not subject to a school bell that dictates movement into the next class and period as is the case in *traditional bricks and mortar schools*.

The intent of the following points is to provide a frame of reference and explain past practices that have been revisited and have now been adjusted to reflect common practice.

Flexibility with Responsibility

REC'D BY HAND DELIVERY

The expectation of all leadership personnel which is inclusive of the vice principal/COOs, directors (i.e. curriculum, IT, and extension), account managers and registrars is that we would have to wear many different hats to support school programs, personnel and students. One such obligation was and still is to be available to fly to neighbor islands to administer the state test or to tutor students or to orient and facilitate parent/community meetings. In the early years of the school's existence, much more travel and coordination of efforts to maintain sites on each island were the norm. As new technology tools were introduced and purchased, some of the travel lessened. The decreasing student enrollment numbers on neighbor islands where new charter schools were started forced the closure of physical sites. However, there were still non-negotiable requirements like the Hawaii State Assessment that required a certified teacher-proctor to administer tests on each island or completing school inventory of curriculum purchased for neighbor island students. In addition, every year depending on the demand, administrators were sent to do both informational and orientation meetings on multiple occasions.

Contrary to what many believe, all personnel embrace and work diligently to fulfill our vision of a school that is truly student-centered and innovative. This isn't just "lip service" but is lived daily. The traditional school schedule, found in schools throughout the state and nation, still maintain a restrictive Carnegie unit system in a hourly work day. Although this practice allows for an easy explanation of how and when school is done, it does not allow for the much needed conversation about the transformation of education. It also does not contribute to innovative new practices that address a new flexible educational landscape. The innovations that MBTA has enjoyed have come from its personnel who are well educated, well read and well traveled. The professional development they enjoy is not through a typical weekly faculty meeting but daily with their colleagues who do not have students physically coming into a facility. Even with their interactive web-cam synchronous classes, the rest of the day is open for teacher collaboration on lessons, activities and projects. This is the same for our leadership team and specifically the administrative team that work on projects at the systems level. These include the redesigning of grades levels like the middle school or the lower elementary grades.

Therefore, it is important to understand that the schedules that are questioned in this charge document require a frame of reference (provided above) and an understanding of the reasons why the charter school movement was started in the state. It was an attempt to begin a movement that would encourage different, non-traditional educational best practices and grant schools increased autonomy in exchange for more accountability and improved student achievement results. This ultimately would lead to overall school reform.

The school and I, its principal, have made sincere efforts to address issues brought to our attention even before recent investigations and interviews. An example of this is the change

made to our personnel evaluation procedure after we received training from the Ethics Commission in August 2010. Also, the record keeping of attendance and absences by front office staff was not consistent and monitored regularly; however, procedures and practice in the past two years have improved and closer monitoring is done by our personnel in charge of this matter. *A standard operational procedure for recording of absences, change of work station and other notations on sign-in sheets and leave forms has been established by the SASA and has been followed religiously for the past two years.*

In January 2011, the school's governing board adopted and implemented Policy Governance. The Governing Board was reconstituted in May 2012 prior to this school year and all board vacancies were filled according to the guidelines of Act 130. The Board By-Laws were also revised to align with the governance requirements of the law (Act 130) and board meetings are held monthly on the second Thursday of the month. The overhaul of the governance structure has taken two and a half years. In addition, current organizational, financial, personnel and student policies were revisited and revised as needed; new policies to reflect compliance with new laws have also been created and approved by the governing board.

Over the years, more than 25 MBTA personnel have held second jobs. The nature of our school and the expectations therein allow for flexibility of time and place. I believe their commitment to the amount of time, degree of work, and dedication to task has never been compromised. This includes Vice Principal/COO Kaapana-Aki. The office of an administrator will require hours beyond a typical work day, work month, work year. Those additional hours are generally not recorded formally anywhere but exist and the "fruits of that labor" is evident in the success of a program and its students. One of the school's flagships is the elementary program that has changed to fit the needs of students and parents perhaps 4 times over 10 years. Each change was difficult for those who were not flexible and willing to change. However, these changes *proved to be enormously successful as evidenced by improved student performance, parent involvement and community support. (i.e. 96% school wide reading proficiency, School quality survey results by parent and community satisfaction).*

Temporary Contract Employee (TCE)

Throughout the years TCEs were written for personnel who were primarily in leadership positions. These included the registrar, SASA, secondary and elementary VPs and the curriculum director. The HDOE TCE document was used as a template which included sections that did not or would not apply to charters. Therefore, this template was revised in recent years (per various auditors' recommendations) with certain sections removed to better align with the charter conditions. Also, the reason why TCEs reflected a year-long time frame is because I believe that contracts were written to reflect the fiscal year in which the work was expected. This is why I listed the start and end of a given fiscal period even if the work

obligations were for 10 month employees who did not come in during the summer. Examples of this practice are the (fiscal year) TCEs written for the registrar, curriculum director and VPs (who are 10 month teacher-types)—none of whom came in during the summer unless asked to do so by the principal. Those work days were then returned as compensatory time for tasks done during this period. The amount of days asked of this group was on the average 10 days total for each administrator, curriculum director and registrar.

Compensatory Time

Compensatory time is issued to all staff for various reasons. Staff and teachers who were called back to the beginning-of-the-year retreat prior to the official start date for teachers were given *compensatory time*. In addition, all staff who participated in and served 24 hours at the three day camps for students were given compensatory time. Administrators who were asked to return to work on various initiatives during the summer for at least 10 days were also given compensatory time. The IT Director, Curriculum Director and Assistant Registrar were also asked to come in during intercessions and summers all of who were given compensatory time. An example of a collective work effort by these individuals and the VPs is the writing of an accreditation Self Study report that is required 6 months prior to a visit. This type of writing and data collection cannot be done during the regular school year without impacting the work of each employee. The authorization of compensatory time was issued to everyone in the school for a variety of reasons that assured satisfactory completion of tasks and obligations. Therefore, I believe this practice does not indicate unfair, preferential treatment and practice toward only one individual, Ms. Kaapana-Aki as stated in HRS section 84-13(3) and the Charge Document.

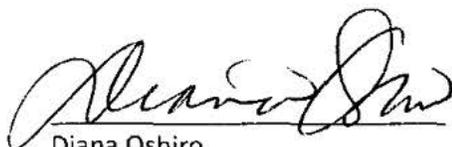
In addition, the nature of our school allows for certain instructors to be at non-MBTA locations to provide instruction. This was the case for: 1-two teachers who taught from Maine for three years; 2-a teacher who taught for 6 months from France; 3-a teacher who is currently teaching and setting up a server in China; 4- two clericals, responsible for data retrieval and storage, who remotely access our repository sites in Texas and Honolulu; 5-a teacher who taught for a month from Spain; 6- a part time elective on-ground teacher who starts his classes at 3 pm and leaves between 7:30 and 8:pm; 7- a teacher who taught aboard the Hokulea for a month and a half as it journeyed to Palmira; and 8-at a teacher who has taught from his home in Honomuu, Hawaii since school year 2006.

Ms. Kaapana-Aki and all other individuals who choose to use their Comp Days must inform me, the principal, prior to their leave date to assure there are no schedule conflicts and other major obligations planned. To date, no one in the school has taken a comp day that was questionable or negatively impacted the operations of the school.

My responses to the counts listed in the Charge Document are provided below. The explanations of each acronym used are as follows:

1. Whole Day (either Personal Leave or Comp Day) – 10 month administrators are asked to come in a total of 10 days over the summers since 2004.
2. .5 CD or .5 PL (one half day equivalent to four hours)
3. Extended (extension of work day – leave work no sooner than 7:00 p.m. and/or report to work no earlier than 7:00 a.m.)
4. MBTA – school business

See attached

A handwritten signature in black ink, appearing to read "Diana Oshiro", written over a horizontal line.

Diana Oshiro

Principal

Myron B. Thompson Academy

COUNT	DATE	WHOLE DAY (P.L. or C.D.)	1/2 P.L. or 1/2 C.D.	EXTENDED	MBTA BUS.
		Personal-PL Comp CD	(at least 4 hrs.)	leave work no sooner than 7:00 p.m. and/or early start no sooner than 7:00 a.m.	
1	3/6/2007				Site fac. Mtg. (Mudalier)
2	3/12/2007	CD			
3	3/14/2007			3/14/2007	
4	4/3/2007	CD			
5	4/12/2007	CD			
6	4/19/2007	CD			
7	5/8/2007	CD			
8	5/15/2007	CD			
9	5/18/2007				end of school inventory; parent mtg.
10	5/21/2007				summer closure; parent info mtg.
11	5/22/2007	PL			
12	5/29/2007	PL			
13	6/5/2007	PL			
14	6/7/2007				parent Info mtg.
15	6/7-8/2007				Parent info mtg and new student orientation
16	8/15/2007	CD			
17-18	9/5-6/2007		9/5/2007	9/6/2007	
19-20	9/26-27/2007		9/26/2007	9/27/2007	
20	9/27/2007				retrieve Hilo resource curr. & restock in Honolulu site
21-22	10/10-11/2007		10/10/2007	10/11/2007	
23-24	10/17-18/2007		10/17/2007	10/18/2007	
25					Educ. Conf. in Kona
26-27	11/8-9/2007		11/8/2007	11/9/2007	
28	12/20/2007	PL			
29-30	1/23-24/2008		1/23/2008	1/24/2008	
31-32	1/30-31/2008		1/30/2008	1/31/2008	
33	2/7/2008	CD			
34	2/26/2008	CD			
35-36	3/12-13/2008		3/12/2008	3/13/2008	
37-38	4/16-17/2008		4/16/2008	4/17/2008	
39-40	4/30-5/1/2008		4/30/2008	5/1/2008	
41	5/29/2008				New student-parent briefing
42-43	6/1-3/2008	PL(6/2)		6/3/2008	

COUNT	DATE	WHOLE DAY (P.L. or C.D.)	1/2 P.L. or 1/2 C.D.	EXTENDED	MBTA BUS.
		Personal-PL Comp CD	(at least 4 hrs.)	leave work no sooner than 7:00 p.m. and/or early start no sooner than 7:00 a.m.	
44-45	8/4-5/2008	PL(8/4)		8/5/2008	
46-47	9/10-11/2008		9/10/2008	9/11/2008	
48-49	9/17-18/2008		9/17/2008	9/18/2008	
50	9/21-23/2008	CD(9/22)			
51-52	9/24-25/2008		9/24/2008	9/25/2008	
53-54	10/15-16/2008		10/15/2008	10/16/2008	
55-56	10/22-23/2008		10/22/2008	10/23/2008	
57-59	11/10-13/2008	CD (11/12)	11/10/2008	11/13/2008	11/11 -Veteran's Day
60-62	12/3-6/2008	PL (12/4)	12/3/2008		
		PL (12/5)			
63	12/12/2008		12/12/2008		
64-65	12/14-16/2008	CD (12/15)		12/16/2008	
66-67	1/21-22/2009		1/21/2009	1/22/2009	
68-69	1/26-27/2009	PL (1/26)		1/27/2009	
70-71	1/29-30/2009		1/29/2009	1/30/2009	
72-73	2/4-5/2009		2/4/2009	2/5/2009	
74-75	2/11-12/2009		2/11/2009	2/12/2009	
76-77	2/25-26/2009		2/25/2009	2/26/2009	
78-79	3/4-5/2009		3/4/2009	3/5/2009	
80-81	3/8-10/2009	CD (3/9)		3/10/2009	
82-83	3/18-19/2009		3/18/2009	3/19/2009	
84	4/27/2009			4/27/2009	
85-86	4/29-30/2009		4/29/2009	4/30/2009	
87	5/5/2009			5/5/2009	
88-89	5/11-12/2009	CD (5/11)		5/12/2009	
90-91	5/18-19/2009	CD (5/18)		5/19/2009	
92	5/26/2009			5/26/2009	
93	6/5/2009		6/5/2009		
94	8/3/2009			8/3/2009	
95	8/10/2009			8/10/2009	
96	8/24/2009			8/24/2009	
97-98	8/30-9/1/2009	CD(8/31)		9/1/2009	
99				9/8/2009	
100	9/10/2009			9/10/2009	
101	9/14/2009			9/14/2009	
102	9/21/2009			9/21/2009	
103	10/2/2009	10/2/2009			
104	10/12/2009	CD (10/12)			
105	11/10/2009		11/10/2009		
106-107	11/10-13/2009	CD (11/12)		11/13/2009	
108	11/16/2009			11/16/2009	

COUNT	DATE	WHOLE DAY (P.L. or C.D.) Personal-PL Comp CD	1/2 P.L. or 1/2 C.D. (at least 4 hrs.)	EXTENDED leave work no sooner than 7:00 p.m. and/or early start no sooner than 7:00 a.m.	MBTA BUS.
109-110	12/3-4/2009		12/3/2009	12/4/2009	
111	12/18/2009				1/2 day before break
112-113	1/4-5/2010	PL (1/4)			
		PL (1/5)			
114-115	1/11-12/2010	PL (1/11)		1/12/2010	
116-117	5/3-4/2010	PL (5/3)		5/4/2010	
118	6/1/2010			6/1/2010	
119	8/4/2010	CD (8/4)			
120	10/11/2010	CD (10/11)			
121	10/27/2010		10/27/2010		
122-123	10/28-29-2010	CD (10/28)		10/29/2010	
124	11/1/2010		11/1/2010		
125	11/3/2010	CD (11/3)			
126	11/4/2010			11/4/2010	
127	11/9/2010			11/9/2010	
128	11/19/2010		11/19/2010		
129	11/23/2010			11/23/2010	
130	11/29/2010			11/29/2010	
131-133	1/6-10/2011	CD(1/6)		1/10/2011	
		PL (1/7)			
134	1/13/2011		1/13/2011		
135	1/21/2011		1/21/2011		
136	9/2/2011	CD (9/2)			
137-138	9/21-22/2011	CD (9/22)	9/21/2011		
139	Friday 11/11/11 was Veteran's Day				
140	11/14/2011	CD (11/14)			
141	1/13/2012	CD (1/13)			
142-144	2/10-14/2012	PL (2/13)	2/10/2012	2/14/2012	
145	4/23/2012			4/23/2012	
146	4/30/2012			4/30/2012	