

September 30, 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 additional charges made in Charge No. 13-Cg-2. The intent of the following is to respond to the additional charges and once again provide you with a frame of reference that will help explain past practices that now reflect common practice.

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. 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.

#### Flexibility with Responsibility

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

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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. We now do most of the informational/orientation meetings for neighbor islands electronically.

All MBTA personnel embrace and work diligently to fulfill our vision of a school that is truly student-centered and innovative. 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 could lead to overall school reform.

MBTA is a charter school governed by a Board that sets policies and provides oversight and encouragement to all MBTA staff to pursue and reach the goals set forth in its original implementation plan. Throughout the years, especially recently, we have made sincere efforts to improve school operations and attend to student progress at all grade levels. To date MBTA has taken a school once designated "Under Restructuring" to "In Good Standing, Unconditional." We also ranked very high in this year's posting of the Strive HI state assessment.

The reconstitution of the Governing Board in May 2012 after its training and implementation of the new Policy Governance structure has made the transition into the new charter law and the Charter Contract smooth.

Because MBTA, a hybrid online/onground charter, is not like any other charter or traditional school the delivery of services and instruction do not follow a set schedule. The school office may be open from 8:00 a.m. to 4:00 p.m but many teachers will arrive at a later time and leave at a different times but continue to instruct students well into the evening. The staff is not restricted to the office times, daily and weekly schedules.

#### Temporary Contract Employee for Kurumi Kaapana-Aki (TCE)

As was mentioned in my March 2013 response, in previous 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 school and state 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 believed that contracts were written to reflect the fiscal year in which the work was expected. It has since been explained to me that it is for the exact period of services rendered which coincides with the expectation of the administrator whose primary duties revolve around the school year, our elementary students, elementary faculty and coordination of vendors and curriculum providers. These activities are done during the 10 month school year only. 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.

With respect to items regarding contract amounts for administrative services done by Ms. Kaapana-Aki, this differential was not given in addition to a vice principal salary. Ms. Kaapana-Aki is on a teacher's salary with a contracted differential for these administrative services which was board approved per MBTA COO Elizabeth Blake.

#### Compensatory Time

As mentioned previously, compensatory time is issued to all staff for various reasons. Because we are unable to provide staff overtime pay, compensatory time is given instead.

Compensatory time is taken in ½ day and full day periods and not hourly. 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, like Ms. Kaapana-Aki, 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. Also, I believe that the 10 days given as compensatory time is warranted because Ms. Kaapana-Aki has been at school throughout her years at MBTA on weekends, holidays, and late into the night (sometimes overnight) all of which were not recognized or given as any kind of compensatory time. Ms. Kaapana-Aki has returned to work more than the requested 10 days during the summer all of which have never been compensated in years past.

The amount of on the job and off the job hours spent by Ms. Kaapana-Aki has resulted in MBTA's significant growth in the elementary program. Our elementary enrollment is now 2/3 of our total school enrollment and the student achievement is far above state averages. What is not evident is the hours and days Ms. Kaapana-Aki has been at school working but not noticed. My statements can be validated by those individuals who were at school during the same time working on individual and collective projects.

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. In addition, the administration has developed a better record keeping system of days worked that may be used as compensatory time. The days worked during the summer are acknowledged and signed off by a member of the human resource committee of Governing Board.

#### Back dating documents

Approvals and signatures for documents filed were properly affixed on forms. The general practice of all staff when leaves are taken is as follows: 1-Staff informs administration/SASA of

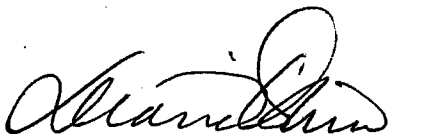
leave (sick/personal/CT); 2- approval is given; 3- SASA places forms for completion in the staff mailbox; 4- staff is to return forms to the SASA. There have been occasions where these forms were either lost or forgotten by staff during the year. The SASA generally reviews her informal notations of leaves and double-checks the submitted forms to match. Oftentimes she does this at the end of a term or year. A recent case in point was of a teacher who took 10 leave days throughout the school year and lost or forgot to submit the forms. Eight of the 10 days needed to be reconciled and forms were filed.

Unfair Treatment

Many staff members have been afforded special treatment when situations demanded such. For example: 1-two teachers ( [REDACTED] ) taught from Maine for three years; 2-a foreign language teacher taught for 6 months from France; 3- our Spanish teacher who taught for a month from Spain while competing in the US national diving competition; 4- a part time elective on-ground teacher who starts his classes at 3 pm and leaves between 7:30 and 8:pm; 5- a teacher who taught aboard the Hokulea for a month and a half as it journeyed to Palmira; and 6-at a current math teacher who teaches from his home in Honomuu, Hawaii. He has been with us since school year 2006; 7- one of our account clerks who worked from home for three months (accessing the financial database stored in Texas electronically) during pregnancy complications; 8- [REDACTED] [REDACTED].

These are just a few examples of how we have all worked together to take care of the school, students and staff which, in the perception of those who do not understand us, appear to be unfair treatment.

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Diana Oshiro  
Principal  
Myron B. Thompson Academy

10/17/13

Date