

July 7, 2023

Special Masters
c/o Inkinen Executive Search
1003 Bishop Street, Suite 1477
Honolulu, HI 96813

Aloha!

Mahalo nui loa for inviting public comment on the current Kamehameha Schools Trustee Selection Process and Trustee Terms along with the opportunity to provide insights and recommendations for an amended process. The undersigned have been engaged in this issue since the spring of 2016 through discussions and/or correspondence with Kamehameha alumni and the Court. All of the undersigned are alumni of Kamehameha Schools who have been closely involved with our alma mater spanning nearly seven decades.

Background. When she created her estate in 1884, Ke Ali'i Bernice Pauahi Bishop designated members of the Supreme Court of the Kingdom of Hawai'i to appoint successor trustees to the estate's Board of Trustees, without any stipulations or requirements regarding process. Designated as individual citizens and not as a judicial body, the justices carried out this responsibility for 114 years.

In response to tumultuous events surrounding the Board of Trustees during the late 1990's, four of the five justices of the Hawai'i State Supreme Court removed themselves from the selection of successor trustees for the Estate of Bernice Pauahi Bishop dba Kamehameha Schools. That decision came in 1997 and was prompted by the outrage of stakeholders, led by alumni, over concerns of trustee abuses.

In their place, the justices designated the Probate Court as the appointing authority, which then approved the current process recommended by the Court Master. That process involves a screening committee to recruit interested applicants, identify qualified candidates and recommend three finalists from which the Probate Court appoints one as successor trustee. Composed of citizens from the general community, the screening committee is appointed by the Probate Court.

Current Trustee Selection Process. The most prominent feature of the current trustee selection process is that it is driven and managed by parties external to Kamehameha Schools who may have little or no connection to or investment in the mission and vision of the institution. We believe this facet of the process is glaring and reflects a continuing paternalistic view that Kamehameha stakeholders are incapable of deliberating and making important decisions such as the appointment of our own leaders. It implies that the judgment and wisdom of Kamehameha stakeholders are inferior to that of the larger community. For many stakeholders, this is perceived as both disrespectful and insulting.

The undersigned have long argued that selection of successor trustees for Kamehameha Schools must be internally directed and managed by our stakeholders and not by external parties. We offer three compelling reasons.

First is standard practice in trust and school governance. Though the respective processes for trustee selection may vary with different charitable trusts and independent schools, the common threads that weave their way through these governing bodies are management and control by parties directly associated with these organizations and institutions, i.e., stakeholders. We know of no other educational institution or charitable trust in Hawai'i where the selection of its board members is managed through a panel of community citizens who are not stakeholders of these organizations. Two prominent Ali'i Trusts, Lili'uokalani and Lunalilo, directly manage selection of successor trustees for their respective boards. Mid-Pacific Institute, Hawai'i Preparatory Academy, Punahou School, 'Iolani School, Saint Louis High School – these and more all recruit, evaluate and appoint trustees to their respective boards as well. One of the largest philanthropic organizations in Hawai'i, the Hawai'i Community Foundation, appoints its own Board of Governors. We see no persuasive reason, rationale or justification for Kamehameha to be viewed in a different or lesser light and reject any argument that deviating from standard governance practice is best for Kamehameha.

Relevant to this point is the then Court Master Benjamin Matsubara's "Report on the Petition for the Establishment of a Procedure for Selection of Trustees" filed on August 5, 1999. Pages 27, 28 and 30 of the report state in part "*Each (selection) Committee member shall be familiar with and sensitive to (1) the history and role of the Trust Estate relative to the Hawaiian community and the community at large, and (2) Pauahi's legacy and her vision for the future of Hawaiian children.*" This stipulation reflects our view that those who select successor trustees need to know and understand Kamehameha Schools, i.e., Kamehameha stakeholders or those who have clearly demonstrated such knowledge and understanding.

The Court agreed, as evidenced by its Order Granting Petition for the Establishment of a Procedure for Selection of Future Trustees dated January 6, 2000, wherein Matsubara's stipulation was cited. We believe that most of the members of the first selection committee appointed by the Court in 2000 – Nona Beamer, Roy Benham, Kenny Brown, Melody MacKenzie, Colbert Matsumoto, Kelvin Taketa and Allen Smith—met the called-for criteria. In a spirit of transparency, the Court published the names and resumes for each of the appointees. Unfortunately, these criteria have not been fully met in subsequent committees, with no explanation of how these appointments were made nor the qualifications and backgrounds of the appointees published.

Second is responsible stewardship. As described earlier, Kamehameha stakeholders, led by alumni, challenged the flawed governance of Kamehameha Schools in the 1990's, successfully removing those trustees responsible for an assortment of abuses that threatened the well-being of the trust. In doing so, alumni, joined by other Kamehameha stakeholders, clearly demonstrated the capacity to lead and act in the best interests of Kamehameha Schools. That alumni led the way is not unexpected because for over 130 years, Kamehameha has graduated good and industrious men and women who have provided important leadership to Hawai'i and made significant contributions to the betterment of our

homeland and our people. There can be no disputing that within the ranks of the Kamehameha 'ohana are the experience, wisdom and values needed to guide and steward the well-being of our School. More than twenty years later, the moral strength and ethical values that prompted the Kamehameha 'ohana to march quietly with purpose and resolve remain unchanged. Then and now, our message is clear, unapologetic and unbending: decisions affecting Kamehameha, including the selection of our own trustees, must be made by us and not for us.

Third is trust compliance. In her Will, Ke Ali'i Pauahi did not stipulate any requirements or guidance for how successor trustees are to be selected, only that the responsibility for appointing successor trustees belonged to the sitting Supreme Court justices acting as individuals. The Will does not mandate that the selection process be managed and directed by the judiciary or any judicial body. That said, the justices of the Supreme Court of the Kingdom of Hawai'i settled on a selection process that was followed for 114 years. In 1997, the justices of the Hawai'i State Supreme Court removed themselves from the selection process. At the same time, the justices delegated to the Probate Court the responsibility for selecting and appointing successor trustees, without any requirement that the process be managed or directed by the judiciary. All of this is to state the obvious: the trustee selection process is evolving, with no compelling legal reasons for the process to be directed and managed by the judicial system.

In summary, for 136 years Kamehameha has submitted to a process for selecting its leaders that, to our knowledge, no other charitable trust or independent school has been subjected or agreed to follow. Since its beginnings, Kamehameha's governing body has been appointed by those whose interests and values are not closely aligned with the mission and vision of this historic and venerable Ali'i Trust. It is now time for responsibility in naming successor trustees to be transferred from citizens drawn from the general community to engaged stakeholders of Kamehameha Schools. The reasons for doing so are compelling: alignment with standard practice in trust and school governance; wisdom, judgment and values for responsible stewardship within the ranks of stakeholders; an evolving selection process with no requirement for direct judicial management. Doing so is pono.

With firm conviction in the validity of these arguments, the undersigned propose a new trustee selection process wherein stakeholders select successor trustees whom the Court appoints.

Proposed Trustee Selection Process. In placing responsibility for selecting successor trustees with stakeholders, a 5-step process is proposed. Included in the process are qualifications for both those serving on the selection committee and those being considered as successor trustees.

Step 1. A Selection Committee is appointed from a pool of applicants solicited in an open and transparent process that is managed by a search consultant. The initial Selection Committee is appointed by the Kamehameha Schools Board of Trustees; subsequent incoming Selection Committees are appointed by the respective outgoing Selection Committees. The Selection Committee consists of seven members who are Kamehameha Schools stakeholders. Kamehameha stakeholders include alumni;

parents and guardians of recipients of KS educational services; current and former staff (education and non-education); and members of the greater native Hawaiian community.

Excluded from membership are sitting trustees and members of previous Selection Committees. An additional stipulation is that members of the Selection Committee are ineligible to apply for a trusteeship for a period of ten (10) years following his or her committee service. Qualifications for sitting on the Selection Committee are listed in the "Selection Committee Qualifications" shown below.

Step 2. The Selection Committee manages and directs the selection process. In doing so, the Committee retains a search consultant to manage the process; establishes the timetable for completing milestones; invites input from the Board of Trustees prior to recruitment; recruits applicants; evaluates applicants based on the "Trustee Qualifications" shown below; creates a short list of six candidates; interviews and seeks public input on the short list of six candidates; and selects one candidate as successor trustee.

Step 3. The Selection Committee informs the Board of Trustees of their choice for successor trustee and provides a report of the process that was followed, a description of the selectee's qualifications and an explanation of the basis for their decision.

Step 4. The Board of Trustees submits the successor trustee to the Probate Court for appointment, along with the documentation provided by the Selection Committee.

Step 5. The Probate Court appoints the successor trustee.

While this proposal stands in stark contrast to the current selection process, it aligns closely with the selection processes followed by two other Ali'i Trusts – Lili'uokalani Trust and Lunalilo Trust.

Selection Committee Qualifications. Through their professional careers, community service and personal lives, prospective members of the Selection Committee will have demonstrated:

- concern for the well-being of native Hawaiians;
- understanding of the person and legacy of Princess Bernice Pauahi Bishop and how it is manifested and implemented in the mission of Kamehameha Schools;
- familiarity with the Kamehameha Schools Strategic Vision;
- contributions to the betterment of the Hawaiian community and the community at large;
- integrity, ethical conduct, moral character and servant leadership;
- appreciation for the culture, language and traditions of Native Hawaiians and the importance of these to their well-being; and
- understanding of and appreciation for the Christian foundation upon which the Kamehameha Schools was founded.

These qualifications reflect a sound understanding of Kamehameha as a Hawaiian school founded on Christian principles preparing native Hawaiian children and youth to become good and industrious men and women with strong Hawaiian identities in a global world. The second and third qualifications reflect the stipulations rendered by Court Master Matsubara in his report cited above. We believe this set of qualities defines individuals as stakeholders who understand and are aligned with the mission and vision of the Schools.

Trustee Qualifications. Through their professional careers, community service and personal lives, prospective trustees will have already demonstrated:

- concern for the well-being of native Hawaiians;
- understanding of the person and legacy of Ke Ali'i Bernice Pauahi Bishop and how it is manifested and implemented in the mission of Kamehameha Schools;
- familiarity with the Kamehameha Schools Strategic Vision and a commitment to its achievement.
- expertise in their chosen profession that will add to the total skill set of the Board of Trustees;
- integrity, ethical conduct, moral character and servant leadership at the highest level;
- strong commitment to advance the culture, language and traditions of native Hawaiians within the broad context of modern society; and
- strong commitment to further strengthen the Christian foundation of Ke Ali'i Pauahi's legacy.

We believe these characteristics reflect the values that shaped Pauahi's worldview and the principles that guided her life. We also believe, very strongly, that they are vital to the continued transformation of Kamehameha Schools as a native Hawaiian institution moving forward in the 21st Century.

In crafting these qualifications for trustees, we are reminded of the circumstances that led to historic changes to the governance of Bishop Estate and Kamehameha Schools in the 1990's. The character of the Board had become highly politicized, with decision-making being driven by political considerations instead of business and educational judgement. In the aftermath of these historic changes, there was a call to remove political influence from the new governance structure by disqualifying elected officials for serving as trustees. We support this exclusion. In this regard, we note that it is common practice for corporate boards to exclude elected officials to avoid the appearance of or actual conflicts of interest.

Closing Comments. The process for selecting successor trustees and the qualifications for trusteeship are critically important for Kamehameha Schools stakeholders. A key step in reconsidering the current process is your appointment by the Probate Court as Special Masters to examine and report on the "Trustees' Petition for Review of Trustee Selection Process and Trustee Terms" filed on May 10, 2022, by the Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools. The undersigned do not underestimate the significance of and complexity in removing the selection of Kamehameha successor trustees from a community base to a stakeholder base, regardless of the compelling reasons for doing

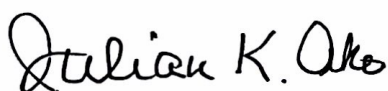
so. However, continuing to view Kamehameha Schools and our ability to govern in a lesser light is not legally, ethically or morally grounded.

Inherent to this proposal is transparency. Our experience with the current process has been at best, disappointing, especially in the appointment of the Selection Committee. The process for identifying and appointing prospective members has not been made clear to stakeholders, nor are the qualifications for membership known. We also point out that the stipulations rendered by Court Master Matsubara regarding understanding of and familiarity with Ke Ali'i Pauahi, her legacy and Kamehameha's role in the Hawaiian community have not been strictly adhered to in appointing past Selection Committees. We deem this to be unacceptable and urge adoption of the Selection Committee Qualifications cited above along with full transparency in any new selection process that is adopted.

In its 2022 petition to the Probate Court to review the current trustee selection process, the Board also asked the Court to consider adjusting individual trustee terms to establish a schedule of staggered terms with two-year intervals. While we agree with staggered terms, we oppose any changes to the current five-year term, two term limit. What this means is that the terms of current trustees cannot be extended beyond the five-year, two term limit, even if this means the Board will be operating with less than five trustees as a staggered schedule is achieved. We believe governance will not be adversely affected by this temporary governance structure.

Special Masters Gusman-Wong, Sonnenberg and Matsubara, mahalo nui loa for considering our comments and proposal for change. We have attempted to be clear and concise, however, we also understand you may have questions or concerns that require clarification and elaboration. For this reason, we are not only available to meet with you as a panel, but we also respectfully request the opportunity to do so.

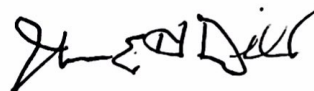
Ke Akua pū.



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