



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

October 12, 2020

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
State of Hawaii

Dear Sir:

Re: Senate Special Investigating Committee on COVID-19

Meeting on October 9, 2020
1:00 p.m.
Hawaii State Capitol

Your Senate Special Investigating Committee on COVID-19, established pursuant to S.R. No. 198, S.D. 1 (Regular Session of 2020), begs leave to report as follows:

The purpose and intent of the Committee is to:

- (1) Assess and advise the Senate regarding the State of Hawaii's COVID-19 plans and procedures;
- (2) Confirm the development of state and county departmental plans and procedures;
- (3) Review and assess current state and county departmental plans and procedures;
- (4) Review and assess whether state and county departmental plans and procedures are properly and timely implemented to safeguard public health and safety;

- (5) Review, assess, and monitor the State's expenditure of federal and state COVID-19 relief funds;
- (6) Communicate and disseminate information obtained therefrom; and
- (7) Issue subpoenas.

On October 9, 2020, your Committee met with the following:

- (1) Ms. Phyllis Unebasami from the Department of Education;
- (2) Dr. Libby Char from the Department of Health; and
- (3) Dr. Sara Kemble from the Department of Health.

FINDINGS OF THE COMMITTEE

I. Opening Statements

Senator Donna Mercado Kim called the meeting to order. Senator Michelle Kidani was not present due to a family emergency. Your Committee met with the participants out of order due to technical difficulties. The participants were given a list of questions by your Committee, which they were asked to answer at the hearing.

II. Updated Guidance for Tiered School Opening by the Department of Health

Dr. Sara Kemble, Deputy State Epidemiologist from the Department of Health (DOH), discussed the ongoing work between the Department of Health and Hawaii schools to update guidance for school openings. Dr. Kemble reported that after having weekly meetings with schools and various stakeholders to review the school guidance released on September 17, 2020, the Department of Health concluded that more engagement with stakeholders is needed. The Department of Health has met with representatives from the Department of Education, with principals and superintendents, charter school principals, and doctors, among others in order to revise the school guidance thresholds. Dr. Kemble also reported that while the guidelines and practices are not changing, the thresholds will be revised. Dr. Kemble further reported that the Department of Health is looking at appending the guidance provided to schools in order to work out more concrete steps for the schools to take when notifying the Department of Health about positive COVID-19 case confirmation and contact tracing. Dr. Kemble reports that they are close to achieving consensus on new guidance.

Senator Donovan Dela Cruz requested that DOH provide a specific date that the new guidance will be released. Dr. Kemble responded that the DOH will release the new

guidance as soon as possible, hopefully as early as Wednesday, October 14, 2020, or Friday, October 16, 2020. Senator Dela Cruz expressed concern that because the Department of Education is responsible for determining when students will be in school and that decision is based on the DOH guidance, the timetable for when students will return to school is in limbo. Dr. Kemble responded that schools have already decided on the learning plan based on previously released guidance and that they have implemented a more conservative plan; nevertheless, DOH will update guidance so that DOE can plan for future steps.

Senator Dela Cruz asked whether the is DOE guidance will be aligned with the county tiered systems. Dr. Kemble responded that there is a draft document in progress. Dr. Kemble noted that the Centers for Disease Control and Prevention (CDC) released its guidance on school indicators on September 15, 2020. DOH released its guidance on September 17, 2020. Therefore, the DOH created its school guidance prior to consulting the CDC's guidance because they needed to provide schools with information. Therefore, DOH looked to guidance from other jurisdictions, particularly Minnesota, and adapted Minnesota's school guidance and made it more conservative (lower case count thresholds) to fit Hawaii's smaller communities. The CDC's guidance also contains a different rate and scheme and approach to risk level, which is not tied to school learning models. Because of this difference, DOH went forward with the guidance they prepared independently. Even with the lowered thresholds in the DOH guidance, schools have commented that the guidance is not conservative enough.

Senator Dela Cruz noted that the counties announced tier systems, each seemingly different from the other, and inquired as to how DOH would be able to align its guidance with the county tier systems. Senator Dela Cruz expressed concern that the differing tier systems would cause confusion among the public and preferred a system with clearly defined rules such that if a county is in a particular tier, everyone would know which businesses could open and which would remain closed. Dr. Kemble responded that the DOH likes the county tier system and expressed that it would be better to have the schools align with City & County guidance. Dr. Kemble expressed that she has not seen each county's guidance, but because they are different, it will be difficult to have a uniform plan. Nevertheless, Dr. Kemble is optimistic that the DOE guidance can be close to uniform. She also reported that the DOH has considered the CDC's guidance and that they considered what it might look like when implemented in Hawaii. Dr. Kemble hopes that the counties are consistent enough so that the DOH's guidance can incorporate the CDC's guidance as well as the one the DOH independently created. Dr. Kemble additionally noted that while the guidance is meant to be uniform across the counties and different schools, their applications will change based on the particular facts in each community or school.

Senator Dela Cruz expressed preference for decision-making to better coordinated between the State and counties by the Governor working with the mayors to direct consistency between the indicators that trigger movement within the tier system. He said

that having multiple leaders making independent decisions based on different metrics would be chaotic for the public. Dr. Kemble responded that while she appreciated the desire for uniformity and clarity, the school guidance is separate because not every school can effectively implement social distancing or blended learning models. Thus, the superintendent is not interpreting guidance, but rather determining how to implement the guidance in the particular school or classroom.

Senator Kurt Fevella asked whether the DOH will adopt the county or the CDC's guidance. Dr. Kemble responded that inclination of the group is to use the county guidelines instead of CDC guidelines. Senator Fevella expressed concern that too much decision-making is being left to the principals of schools to determine their own policies, rather than the decision-making being vested in a single person. Senator Fevella further expressed the desire to have unified state guidance instead of piecemeal county by county plan. Dr. Kemble responded that the guidance for schools is statewide and that there is not a separate school guidance for each county. Senator Fevella reiterated his concern that each school is operating independently and that the superintendent should be the leader.

Senator Sharon Moriwaki expressed the desire for the DOH as the health experts to develop simple tiers, coordinated with county guidance, that clearly describe the permitted activities and safety protocols for all sectors of the community (businesses and schools alike) that the public can easily understand. Dr. Kemble responded that the guidelines are only one part, and that the second part is how to implement safeguards in the classroom to make the campus as safe as possible for reopening. Dr. Kemble also noted that the DOH is available as a resource for schools. Senator Moriwaki noted that the DOH should serve as a consultant to answer questions and have a centralized resource available for schools so that they can easily determine the proper procedures. She further suggested that a list of FAQs be posted on a website. Dr. Kemble agreed that a FAQ webpage was an excellent suggestion.

III. Status of Community Partners and Contact Tracing

Senator Mercado Kim inquired as to the status of DOH's engagement with community partners, particularly in communities with residents from island nations. Senator Mercado Kim noted that there are communication issues in these communities because of the language barriers and further expressed concern that without community partners being in these communities, schools will continue to be affected. Senator Mercado Kim noted that your Committee has been inquiring about community partners since June and that the DOH has reassured your Committee that it has "handshake" agreements with community partners; however, the community partners have expressed that to date, there are no agreements with DOH. Senator Mercado Kim further expressed concern that without the help of community partners, it is difficult to effectively perform contact tracing. Dr. Kemble responded that engagement with the federally qualified health centers is the crux of scaling up contact tracing. She noted that this engagement is being worked on

and that she conversed with Dr. Hirokawa about how to best get the data transmitted. She further reported that the DOH already receives case reports from the medical providers and are looking for better ways to get the data. She also said that the DOH would like to get a streamlined electronic system to get the information and that the infrastructure takes time to be built. Furthermore, Dr. Kemble expressed that DOH is being urgent, but the infrastructure needs to be built for the data to be reliable.

Senator Mercado Kim noted her concern is not the data but rather there are no boots on the ground and contact tracers following up with certain island nation communities in their language. Senator Mercado Kim reiterated that your Committee was told over a month ago that DOH had agreements with community partners and inquired as to why agreements are still lacking. Dr. Kemble responded that there are two pieces to that answer. The first is on the DOH side to streamline the information DOH receives from providers and their interaction with cases. The second deals with community outreach, which Dr. Char may be better able to address. Senator Mercado Kim would like an update today as to why DOH does not have an agreement with DOH.

Senator Dela Cruz noted that memoranda of agreement (MOA) with community health centers were needed so they can be informed of the procedures to follow when interacting with the community. Senator Dela Cruz expressed the importance for community providers to take the lead on contact tracing because they tend to have a better relationship with the public and that contact tracers' calls are not being returned due to lack of trust. Senator Dela Cruz noted that the community partners are not taking a formal role in the process because of the absence of a MOA. Dr. Kemble agreed that the processes need to be clearly defined. Senator Dela Cruz inquired as to the timeline of acquiring the MOAs for community partners. Dr. Kemble did not think that MOAs are necessary for case investigation on the doctor's side, but perhaps are necessary for other aspects.

Senator Mercado Kim expressed frustration that she has been told by community partners that DOH is hiring a "specialist" to draft a MOA for community contact tracing. Dr. Kemble again questioned why a MOA is needed, as the community partner doctors are already obligated to report cases to the DOH. Senator Mercado Kim responded that the MOA is necessary so that the community partners know what is expected of them.

Dr. Libby Char, Director of the Department of Health, then joined the conversation, noting that the agreement being discussed is to help do contact tracing. Dr. Char further noted that the community partners are in fact performing contact tracing for their own patients and no MOA is required to do this. However, the confusion is whether the community partners should perform contact tracing and outreach for those in the community who are not their patients. In these latter cases, DOH is trying to sort out whether a MOA is needed to share data with the community partners for those non-patients. As a separate issue, the counties are also trying to secure funding for the federally qualified health centers to perform contact tracing.

Senator Dela Cruz confirmed with Dr. Char that the issue is whether a MOA would be needed for are those people in the community who are not currently patients of community partners. Senator Mercado Kim inquired as to the timeline for the MOA to be completed and stressed the need for deadlines. Dr. Char noted that she will take it up with her staff again.

IV. Department of Education's Guidance Plan and Current Procedures

Ms. Phyllis Unebasami, Deputy Superintendent of the Department of Education (DOE) acknowledged the various parties that have contributed to forming guidelines and reopening schools. Ms. Unebasami emphasized that she could only speak to public schools and covered the following topics:

- The DOE's guidance plan. The DOE has used the Governor's transition document, which starts with stay at home and ends with a new normal, and has not deviated from it. More recently, the DOE used the DOH's recent guidance to implement strategies to mitigate risks and to keep students and employees safe at school. Ms. Unebasami confirmed that the DOH guidance was released just before the CDC guidance, but the DOE has used both the DOH and CDC guidelines to ensure that data is evaluated using all available guidance.
- Bringing students back into the classroom. Ms. Unebasami indicated that according to the DOE tier system, distance learning would be offered in the orange and yellow tiers. Special Education students in particular require in-classroom learning as well as medically-fragile, English learner (EL), and other vulnerable students for whom online learning is not optimal. Ms. Unebasami noted that the DOE must evaluate the operations, workforce, and facilities at each school because these elements can vary greatly and affect how social distancing can be implemented as the number of students increases on campus. She noted that while the public may prefer a single metric to apply to all schools, the reality is that every school is a unique community the conditions of which may require different treatment. The DOE instead provides one set of criteria that is used to evaluate the unique situation of each school.
- Compliance with CDC Mitigation Standards
 - Supplies. Ms. Unebasami noted that although the DOE has been using mitigating strategies from the CDC guidelines, it has been a challenge to get the proper sixty-day supplies on time, especially in rural areas on neighbor islands, but they are working with the Hawaii Emergency Management Agency to accomplish this task.

- Training. All staff and students will be trained, and there will be a cyclical review for monitoring compliance. The DOE also implemented a reporting system for those who are not complying with CDC strategies.
- Decision-making. Ms. Unebasami acknowledged concerns about whether principals can effectively make decisions. However, the principals are in best position to make decisions and they are not making decisions alone. In some of the schools, the data and the knowledge of each particular community will help guide the decision-making about opening up or being more conservative. The criteria and strategies utilized are universal; however, the needs of the individual schools and the will of the communities they serve are variables that must also be considered. Principals will be supported in the decisions that they make using the provided criteria.

Senator Dela Cruz asked whether the CDC indicators have been distributed to the schools. Ms. Unebasami confirmed that both the DOH and the CDC indicators have been distributed to all the schools, but the newest guidance from the DOH being discussed at this meeting had not yet been released. The DOE ensures that the CDC and DOH guidance is used side by side, but they rely more heavily on the CDC guidance. The DOE deviates from CDC positive case thresholds because Hawaii communities will only tolerate lower numbers. Senator Dela Cruz asked at what point will the guidelines be consolidated and whether those guidelines will be able to align with the county tiers such that the DOE and the county movement between tiers are in lock step rather than separate. Ms. Unebasami responded that the guidance is not that "automatic" because of community will. Some parents may feel comfortable about sending children back to school and others may not. The schools require flexibility to accommodate and support families who want to do something different than what is generally recommended. Furthermore, part of the decision-making for whether to keep a particular school open or closed is whether the school facility can operate safely. Senator Dela Cruz prefers that the principals not make school opening or closing decisions. Senator Dela Cruz also requested that the updated guidance be emailed to your Committee.

Senator Jarrett Keohokalole asked Dr Kemble about her role in in the City and County of Honolulu's tiered reopening strategy. Dr. Kemble responded that she was invited to participate to help develop the reopening strategy. She reiterated that the goal is to get a unified document for the State, taking into consideration CDC, county, and DOH guidance. Dr. Kemble further advocates for particularized considerations because of the unique features of Hawaii.

Senator Fevella asked for the timeline and protocol for the DOE and DOH in reacting to a reported COVID-19 case on a school campus. Ms. Unebasami responded that in most scenarios, the principal receives notice of a confirmed or potential case or that a person has been in close contact with someone who is positive. Each principal will then initiate a group text conversation with the DOE's COVID-19 response team, which includes

members that can address personnel and communications issues. Within an hour of the principal's alert, the DOE contacts the principal to obtain necessary case data to report to the DOH. If the person in question is an already-confirmed positive case, the DOE asks for documentation for that person. If the person is only suspected of being positive, that person is encouraged to visit their primary care physician or a testing station. Ms. Unebasami added that when a principal asks for professional cleaning, the DOE dispatches professional cleaning services. She also noted that due to recent school break-ins, the DOE will also be sending cleaners to the affected locations.

Senator Fevella further expressed concerned that school employees who may be positive will be reluctant to get a test immediately because they could be prohibited from working and in the time before they get tested, they risk infecting others. Ms. Unebasami responded that if there is a potential case on campus, the person is asked to go home and not return to school. If the person was in close contact with someone who tested positive for COVID-19, that person is asked to get tested and go on telework. Ms. Unebasami stressed that the procedures are very clear and that the DOE talks to the principal to make clear who needs to go home and who is placed on leave. Ms. Unebasami suggested that she can have a principal testify in front of your Committee as to the efficacy of the protocols.

Senator Dela Cruz inquired whether school health rooms are able to provide tests. Ms. Unebasami responded that not all schools will provide tests. Senator Dela Cruz inquired how the DOE will determine whether a school can administer tests. Ms. Unebasami responded that it would be based on need, such as in the case of a hotspot, given that there are a finite number of tests. Senator Dela Cruz further inquired as to who determines who is eligible to take a test. Dr. Kemble responded that the State has a series of testing strategies and priorities in place. She further noted that some of the decisions are based on the ability to procure tests. Dr. Kemble also responded that anyone who comes to campus sick would have access to testing, be it a student, teacher, worker, or other community member.

Senator Moriwaki asked how many of the schools reopening next week are safe. She inquired whether there is a criterion so that the principals know what to do and whether they have adequate support. Ms. Unebasami responded that the schools are holding to the same model they used before Fall Break. The school superintendents have also had conversations with schools to monitor status. Senator Moriwaki reported that she was aware of a principal who did not know his school could remain closed and inquired whether the principals are given the option to open or remain closed. Ms. Unebasami responded that it would be important to know the specifics of each situation because information has been provided to principals and principals can contact either her directly or their area complex superintendent for clarification to ensure principals feel confident in making decisions.

Senator Fevella asked whether the schools have the proper amount of personal protective equipment (PPE) and expressed concerned that not all schools do. Senator Dela Cruz further inquired whether adequate PPE was being provided to employees who work with special needs students. Ms. Unebasami responded that the DOE has worked with the Hawaii Emergency Management Agency to deliver those supplies, and principals can request more PPE online. Additionally, a 1-800 number was activated to provide answers to PPE questions; she will send that information to Senator Fevella.

Senator Dela Cruz then presented the following questions submitted by Senator Kidani:

- Did the DOH review and approve the DOE protocol for handling positive COVID-19 cases at schools? Dr. Kemble responded yes, they have, and they continue to receive input and clarification from school liaisons.
- What is the timeline to respond to a case reported by the DOE? Dr. Kemble responded that they notify the school principal within 24 hours.
- The CDC recommends three core indicators of key mitigation strategies. Why has DOH only used one core indicator? Dr. Kemble stated that they are looking to add a second core indicator (percent positivity), which will be presented to the School Health Committee on Wednesday, October 14, 2020.
- What is the average response time? Dr. Kemble responded 24 hours.
- If DOH uses CDC indicators and thresholds of 100,000, how many schools could open next week? Dr. Kemble noted that it would depend on what is set as the new threshold, but the most important determinant of whether a school could reopen is what mitigation that school will be able to put in its classrooms.
- When will DOH release school level data on infections? Dr. Kemble responded that there are currently no plans to release school level data on infections. In response to Senator Keohokalole's inquiry as to why the data are not released, Dr. Kemble explained that the main goal of public health is to stop transmissions. The DOH must strike a delicate balance between keeping the public informed and preserving the trust of affected individuals so that they are willing to share sometimes very personal data that can aid DOH's investigations of transmissions.

Senator Keohokalole inquired as to what point the DOH would engage in informative dialogue with the community that would also not compromise the DOH's investigation. Dr. Kemble responded that if the information about a school becomes public, the DOH can verify that information. She also noted that sometimes case counts can change during an investigation, so publicizing information too early can cause confusion and frustration. She further stated that the size of a school can also be relevant, as a positive

case in a small school could be identifying. She noted that the information would be made public when the DOH is unable to identify contact tracing by private means.

Senator Keohokalole followed up by saying that he understands the challenges, but noted that the public is unsatisfied with the lack of communication from the schools and DOE. Ms. Unebasami noted that the DOE does provide messaging response support to each school that has a possible COVID-19 case. Ms. Unebasami reported that the individual is notified as well as the close contacts, and that the DOE also provides messaging to the school community so that the people who may have been in close contact have that information. Ms. Unebasami noted, however, that to publicize that an individual school has an active or potential COVID-19 case has little value because the DOE communicates to the school community even before there is a confirmed case.

Senator Moriwaki asked who constitutes the school community. Ms. Unebasami responded that if the school is in session, the school community consists of all the employees of a school and families of the students who attend the school.

V. CLOSING REMARKS

Your Committee made no closing remarks.

Your Committee adjourned the meeting at 3:05 p.m.

Respectfully submitted,

Senate Special Investigating Committee
on COVID-19

Sen. Donovan M. Dela Cruz
Sen. Jarrett Keohokalole
Sen. Michelle Kidani
Sen. Donna Mercado Kim
Sen. Sharon Moriwaki
Sen. Kurt Fevella

cc: All Senators