

STAND. COM. REP. NO.

2251

Honolulu, Hawaii

FEB 13 2008

RE: S.B. No. 2004
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committees on Education and Human Services and Public Housing, to which was referred S.B. No. 2004 entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

beg leave to report as follows:

The purpose of this measure is to make amendments to the administrative hearings process relating to the education of children with disabilities.

Specifically, this measure:

- (1) Extends the deadline within which to file a request for a due process hearing relating to the education of a child with a disability from ninety days to two years when the request is for reimbursement of costs of a child's placement;
- (2) Requires the Department of Education to adopt rules that provide for the reimbursement of expert witness and other relevant fees and expenses associated with a hearing; and
- (3) Requires the establishment of an appeals board and process wherein a state review officer shall review the decisions of the impartial hearings officers.

Testimony in support of the measure was submitted by the State Council on Developmental Disabilities, the Community

2008-1111 SSCR SMA-1.doc



Children's Council Office, the Hawaii Disability Rights Center, the Autism Society of Hawaii, and four individuals. Testimony in opposition to the measure was submitted by the Department of Education and the Department of the Attorney General. Comments on the measure were also submitted by the Special Education Advisory Council.

Your Committees find that, pursuant to state law and the Individuals with Disabilities Education Act, it has been a continual challenge for the Departments of Education, Human Services, and Health to provide Hawaii's children with disability services that meet their special education needs. Issues surrounding these special needs students must be properly handled, and every possible path to ensure their needs are provided should be developed. This measure addresses the administrative hearing process that determines a student's identification, evaluation, program, or placement due to their disability.

Your Committees find that feedback from parents of children with disabilities indicate that there is confusion and frustration with the current ninety-day statute of limitations period for requesting a hearing regarding a unilateral special education placement, where the reimbursement of costs are an issue. Although all parties have an interest in the timely resolution of these issues, the difficulties of parents in these situations, including the difficulty in retaining an attorney for purposes of the administrative hearing, should be considered. Additionally, your Committees received testimony that indicates the recovery of expert witness fees and the institution of a two-tier review system may be inappropriate, at least at this time.

Accordingly, your Committees have amended this measure by:

- (1) Changing the period within which to file a request for a due process hearing relating to the education of a child with a disability from ninety days to one hundred and eighty calendar days when the request is for reimbursement of costs of a child's placement;
- (2) Removing language that requires the Department of Education to adopt rules that provide for the reimbursement of expert witness and other relevant fees and expenses associated with a hearing; and



- (3) Removing language that requires the establishment of an appeals board and process wherein a State Review Officer shall review the decisions of the impartial hearings officers.

As affirmed by the records of votes of the members of your Committees on Education and Human Services and Public Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2004, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2004, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Education and Human Services and Public Housing,



SUZANNE CHUN OAKLAND, Chair


NORMAN SAKAMOTO, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Human Services and Public Housing
HSP

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2004	EDU/HSP, WAM	2/4/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
HOOSER, Gary L.				✓
SAKAMOTO, Norman	✓			
HEMMINGS, Fred				✓
TOTAL	3	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes