

Date of Hearing: January 30, 2008

Committee: House Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. No. 2029, Relating to Education

Purpose: Establishes special education advisory council in chapter 302A, HRS, relating to education.

Department's Position: The Department of Education (Department) does not support H.B. 2029.

The IDEA through its regulations stipulates in 34 C.F.R. §300.167, that the state must establish and maintain an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state.

- The advisory panel is established and operating as the Special Education Advisory Council (SEAC). The current mandates of and for the advisory panel were established by the 1997 and 2004 reauthorizations of IDEA. The initial formation of the advisory panel was a result of P.L. 94-142. This bill is unnecessary as the SEAC is established.

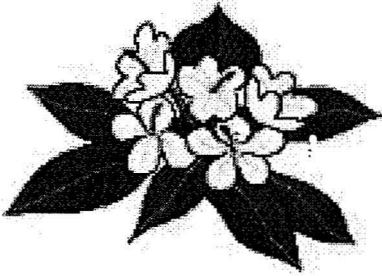
The federal regulations clearly delineates in 34 C.F.R §300.168, that:

- 1) The advisory panel must consist of members appointed by the Governor, or any other official authorized under state law to make such appointments.
  - The appointment of the members to the council by the Governor is contrary to Section 26-35 that provides that whenever any board or commission is placed within or transferred to a principal department for administrative purposes, the employment, or appointment of all officers and employees of or under the jurisdiction of the board or commission shall be determined by the board or commission subject to the approval of the head of the department.
- 2) The majority of the members must be individuals with disabilities or parents of children with disabilities (ages birth through 26) and include state education officials, including officials who carry out activities under Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).
  - These requirements on the membership of the special education advisory council are not addressed.

The IDEA through its regulations also delineates the duties of the advisory council in 34 C.F.R. §300.169. The advisory council must:

- 1) Advise the Department of unmet needs within the state in the education of children with disabilities;
- 2) Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
- 3) Advise the Department in developing evaluations and reporting on data to the Secretary of Education under Section 618 of the IDEA;
- 4) Advise the Department in developing corrective action plans to address findings identified in Federal monitoring reports under Part B of the IDEA; and
- 5) Advise the Department in developing and implementing policies relating to the coordination of services for children with disabilities.
  - These duties of the special education advisory council are not addressed.

The IDEA, as reflected in 34 C.F.R. 300.167 through 300.169 are mandates that the Department must implement. The Department has an established advisory council, SEAC. This bill is unnecessary and does not address all requirements of the IDEA. The Department is unable to support the bill as written.



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January 30, 2008

**Special Education  
Advisory Council**

**TESTIMONY TO THE HOUSE COMMITTEE ON EDUCATION**

RE: HB 2029 - Relating to Education

Ms. Ivalee Sinclair, *Chair*  
Mr. Steve Laracuent, *Vice  
Chair*

The Special Education Advisory Council (SEAC) firmly opposes the above legislation aimed at establishing SEAC in Chapter 302A of the Hawaii Revised Statutes.

Ms. Janet Bamford  
Dr. Paul Ban, *Liaison  
to the Superintendent*  
Ms. Sue Brown  
Ms. Deborah Cheeseman  
Ms. Phyllis DeKok  
Mr. Lee Dean  
Ms. Mary Ellis  
Ms. Debra Farmer  
Ms. Gabriele Finn  
Ms. Martha Guinan  
Mr. Henry Hashimoto  
Ms. Tami Ho  
Ms. Barbara Ioli  
Ms. Valerie Johnson  
Ms. Shanelle Lum  
Ms. Rachel Matsunobu  
Ms. June Motokawa  
Ms. Barbara Pretty  
Ms. Susan Rocco, *Ex-officio*  
Dr. Patricia Sheehey  
Mr. August Suehiro  
Ms. Jan Tateishi, *Ex-officio*  
Ms. Judy Tonda  
Dr. John Viesselman  
Ms. Cari White  
Ms. Jasmine Williams  
Mr. Duane Yee  
Mr. Wilfred Young

The Council is Hawaii's State Advisory Panel under the Individuals with Disabilities Education Act (IDEA). Our mandate is to advise and assist the Department of Education in fulfilling its responsibilities regarding the education of all eligible children with disabilities. Council membership is made up of a diverse group of stakeholders in the special education process and has a majority of parents of children and young adults with disabilities and individuals with disabilities.

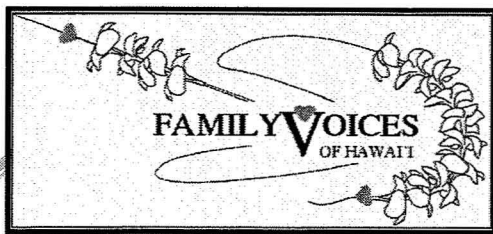
The Council's opposition to HB 2029 is based on the following:

- \* SEAC is mandated under IDEA, and therefore statutory language is not necessary;
- \* the Council is advisory to the Superintendent and wishes to maintain that relationship, including the Superintendent's ability to appoint members to the Council; and
- \* HB 2029, as written, is not inclusive of the purposes, functions and requirements under IDEA.

If there are any questions, please feel free to contact me or Council staff at the above address or telephone.

Sincerely,

Ivalee Sinclair  
Chair



# HILOPA'A

Family to Family Health Information Center

Date: January 29, 2008

To: COMMITTEE ON EDUCATION  
Rep. Roy M. Takumi, Chair  
Rep. Lyla B. Berg, Ph.D., Vice Chair

Fr: Leolinda Parlin, State Coordinator for Family Voices of Hawai'i

Re: HB 2029 – Opposition to RELATING TO EDUCATION: Establishes special education advisory council in chapter 302A, HRS

On behalf of Family Voices of Hawai'i, I **oppose** HB 2029.

As an organization, Family Voices is national grass roots organization of family of friends of child with special health care needs. In Hawai'i, we operate the federally funded Hilopa'a Family to Family Health Information Center.

We oppose this measure for the following reasons:

1. The measure would distance the "voice" of the Special Education Advisory Council (SEAC) further away from its mandated advisee – the Department of Education
2. The measure does not contain the appropriate composition of members as prescribed by federal law
3. The SEAC has been operating for over 30 years, 3 decades, without the need for codification in state statute
4. This measure was not initiated by the SEAC; and as an advocacy organization SEAC would be in the best position to identify and initiate any changes they would deem necessary to help them achieve their organizational mission and goals.
5. The measure does not give an justification or rationale for changing the status quo

Finally, this measure is symptomatic of a series of measures which have been proposed over the last three years which have attempted to create various infrastructures outside of the system, which are duplicative and redundant. These measures tend to be "end runs" around the system and fail to hold the system accountable. As it relates to HB 2029, one is unable to fathom what this statute would remedy. Therefore, one must rely on the old adage, "if it's not broke, don't fix it" and oppose this bill.

Thank you for time and consideration.