

LATE TESTIMONY

Roy P. Yamane
President of the Hawaii Down Syndrome Congress (HDSC)
(808) 368-1060

Committee on Education
Representative Roy Takumi, Chair
Representative Lyla Berg, Ph.D., Vice Chair

February 6, 2:15pm, 5 copies

HB2186

Testimony

It is necessary to approve HB 2186 extending the deadline in which a person with disabilities has to file a request for a due process hearing relating relocation cost recovery to the education of a special needs child. Succinctly this piece of legislation amends the current due process timeline for cost reimbursement from ninety-days to two-years. The Hawaii Down Syndrome Congress supports the change to two years for the following reasons.

Parents or individuals caring for the needs of children with disabilities are inundated with a variety of daily challenge that influences their child's quality of life. These challenges include medical imperatives, living necessities, physical constraints and education. These influences affect a caregiver / parent's priorities relating to decision-making, time allocation and resources. Impacts from these factors make the current ninety-day requirement hard at best to achieve for families facing so many obstacles.

My experiences as a parent with children with special needs have been eye opening and challenging. Upon learning of the disabilities of each of my children, it became obvious that quality life would be the priority. Focusing on physical, medical, financial, and education needs are important to influencing the quality of life facing all children with special needs.

Understanding these priorities necessitates my support of HB 2186. The challenge for parents / caregivers with special needs children is to prioritize by which needs come first. Using this hearing as an example, as a concerned parent with a child with a disability the time of the hearing is 2pm on a Wednesday. The choice before me is to attend the meeting in support of the bill, to miss work, lose income and potentially affecting current service relative to my children's disabilities.

As a manager in the private sector for many years an interesting incident comes to mind that supports the need for this amendment. An employee apparently failed to report a workers compensation injury at the time the mishap occurred. This employee left the organization and just less than two years filed for the injury.

A workers compensation mediation meeting was held with the government mediator, employee and the company representative. A discovery was made at this meeting that the employee had up to two years to file an injury complaint regardless that a report was not initiated at the time of the injury. When questioned about the late reporting the government mediator said that the injured employee had up to two years to report the claim. Comparing the worker compensation situation to HB 2186 it only

seems fair and appropriate that the same consideration of a two-year filing period for due process to special needs families recovering cost for relocation be given.

By maintaining a short filing period does not afford the parent the appropriate amount of time to discuss the alternatives with all parties and while at the same instance attempt to maintain a stable quality life for the child with disabilities. Once an impasse occurs with the school IEP team, the parent is forced to seek relocation alternatives for their child, and then the bureaucratic shuffle begins. This process seldom provides proactive notification by the Department of Education involving what the next process or step is and what department is responsible. My personal experience over several years working with the DOE allows me to attest to obstacles like misinformation, non-accountability, poorly trained staff and educational lip service causing the bureaucratic shuffle in the DOE.

Now it is left up to the parent / care giver to research and select the process that defines the best solution for their handicapped child. Then a new process starts with the parent appearing or applying to another bureaucratic system for support. The journey is not endless unfortunately it is long. In the case of HB 2186, the two-year timeline provides the parent and child a fighting chance against a system that considers expeditious resolution and cost more important than the quality of life for a child with disabilities.

Parents / caregivers must place at the forefront the medical and basic living necessities of their children with disabilities. The two-year change to the due process filing period affords families with special needs children the necessary time to file an all-inclusive request for relocation cost reimbursement.

We the members of the Hawaii Down Syndrome Congress sincerely hope that this committee and all other public entities carefully review HB 2186. In closing, support families with children that have disabilities in voting yes on this important initiative.

Committee On Education
The House
February 6, 2008
TESTIMONY IN SUPPORT OF
HOUSE BILL 2186

LATE TESTIMONY

Chairs Takumi, Berg and members of the Committees,

My name is Rida Ching. I am a parent of a child with autism. HB 2186 would expand the deadline within which to file a request for due process hearing from ninety (90) days to two (2) years when the request is for reimbursement of costs of a child's placement. It would also require the Department of Education to adopt rules that would provide for the reimbursement of expert witnesses and other fees and expenses associated with a hearing.

My son is Matthew Ching, 16 years old, with Autism. We have been through many years of IEP meetings. The meetings themselves are stressful and can be quite intimidating. A parent must listen carefully, takes notes, and speak with confidence, knowing that about 15 DOE employees in the room will be staring and in many cases, disagreeing with you, the parent. After the meeting, a parent may review the information, call additional meetings, get clarification, make numerous phone calls, consult with professionals, and on and on. A parent should not be held to 90-days to do all that is necessary to understand a complicated IEP, research other resources, and get very important advice. The child's future is at stake, and It is not fair to the child.

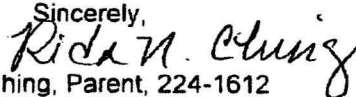
As a parent of a disabled child, I have been to individualized education program (IEP) meetings for my child. This is a very stressful and difficult process, and it is not one which is straightforward or collegial. Parents are at a disadvantage at the IEP meetings because we do not always understand the process or the terms used. Placing yet another requirement upon the parents of having to request a due process hearing within 90 days is extremely burdensome. It is also unfair to require Hawaii 's families to be limited by the 90-day limitation when other states apply up to a two (2) year statute of limitations. Even under federal law, a parent could request an impartial due process hearing up to two (2) years of the time a free and appropriate public education was denied.

It is equally important to have the Department of Education develop rules for reimbursement of expert witnesses and other expenses. Very often expert witnesses are needed as witnesses at the hearing to explain a child's special needs and disabilities. Currently, these kinds of expenses are rejected and reimbursement is not provided.

I strongly support SB 2186 which would level the playing field for special needs children and urge your Committees to pass this measure.

Thank you for the opportunity to provide testimony on HB 2186.

Sincerely,



Rida N. Ching, Parent, 224-1612
92-1284 Palahia St., Kapolei , HI 96707

LATE TESTIMONY

From: Wendell & Linda Elento
Members of The Hawaii Down Syndrome Congress

To: Representative Roy Takumi, Chair, Education
Representative Lyla Berg, Ph.D., Vice Chair, Education

Re: EDN February 6, 2008, 2:15p
HB2186 In Support



Our strong support for this bill stems from over two years experience with the due process administrative hearings process and federal court proceedings. When the DOE pays a consultant, who is not a Hawaii-licensed attorney, to train the Administrative Hearings Officers, Board of Education members, DOE personnel, advocates and parents on the federal special education law (the IDEA), one does not have to wonder why our hearings officers and DOE personnel follow the same narrow path to implementing the requirements of the IDEA. Our only recourse is filing a lawsuit at state or federal court within 30 days of a hearing decision per Hawaii Administrative Rules (which we also testify should be extended to no less than 90 days, and this language added to this bill). Court requires hefty filing fees, legal know-how, deadlines. We support an appeals process with the opportunity to present more evidence without a court system. There is room for great error during administrative hearings due to lack of knowledge of the process and requirements of proving by preponderance of the evidence.

We support the extension of time in order for a parent to request private placement reimbursement when a Free Appropriate Public Education is of concern. The IDEA allows up to two years unless state law says otherwise. Hawaii Law says 90 days.

What happens during those 90 days? Not just 90 days, but an entire school year is affected. During the 90 days prior to our filing for a due process administrative hearing in November 2007, we asked the school for IEP meetings before we brought our son back to school, we appealed two geographical exception denials, we submitted a written complaint, we provided documentation: a doctor's letter and peer-reviewed research, we sought and paid for alternative learning programs, we sought legal counsel, we researched the laws, we researched our son's educational and health needs.

Move expeditiously for the welfare of the child?

There were simply too many aspects to consider, research, in addition to just keeping my child healthy. I had no choice but to go ahead and file, and continue to do the research and follow the hearing procedures. By the way, I found out about the 90-day rule over six months after a previous due process hearing request was filed and delayed by a resolution session and settlement meetings and re-started after I believed the AHO had shown bias in having agreed with the DOE representative on a certain unfounded special education legal matter.

If the school really wanted to move expeditiously, the school would have said yes to our request for mediation, said yes to discuss the basis of the due process request as required during the Resolution Session (instead we were told to discuss those matters with the hearings officer the

following week at the pre-hearing conference), said yes to our request for a geographical exception request when they failed to comply with our son's IEP which clearly states pureed foods and thickened liquids are ONLY to be given, and when they refused to place him in one of their four regular kindergarten classes, opting for a fully self contained/resource room for 1st through 3rd graders because they had lost their preK/K teacher that July 2008.

Laws/Rules are unclear.

State Law and Administrative Rules are unclear as to if the reimbursement request is only for reimbursement of private placement expenses up to the day the due process hearing was requested by parent. Does that mean the parent has to file again to request for reimbursement for the subsequent 90 days, and so forth? Due to scheduling conflicts between all parties, witnesses, filing briefs, court reporter transcripts, the AHO's decision is not due until July 2008.

Costly and burdensome.

This due process is costly and burdensome whether we have legal representation or not. If we even want to dream of winning our case, we need expert witnesses and the right evidence to prove our case with the preponderance of the evidence. In the hearing, the DOE is automatically right about everything because they are the "education experts." So how much does an expert witness cost, if you can even find one, and one that will be at the hearing no less? Even attorneys who are willing to not charge a parent if the case is lost will still incur expert witness fees which may be passed on to the parent regardless of winning or losing.

Who trains whom?

During a pre-hearing conference, the administrative hearings officer (AHO) said we could only ask for reimbursement up to that day we filed. However, the AHO commented that we were free to find and provide case law that says the AHO has authority to do otherwise. So how are parents to know what they can ask for? how about DOE personnel? how about the AHO? A hearings officer could not even tell us how to issue a subpoena for a witness in a hearing.

LATE TESTIMONY

**TESTIMONY TO THE TWENTY-FOURTH STATE LEGISLATURE, 2008
SESSION**

To: House Committee on Education

From: Gary L. Smith, President
Hawaii Disability Rights Center

Re: House Bill 2186
Relating to Education

Hearing: Wednesday, February 6, 2008 2:15 PM
Conference Room 309 , State Capitol

Members of the Committee on Education:

Thank you for the opportunity to provide testimony supporting House Bill 2186, Relating to Education.

I am Gary L. Smith, President of the Hawaii Disability Rights Center, formerly known as the Protection and Advocacy Agency of Hawaii (P&A). As you may know, we are the agency mandated by federal law and designated by Executive Order to protect and advocate for the human, civil and legal rights of Hawaii's estimated 180,000 people with disabilities.

We support this bill and speak from a fair amount of experience as we represent a lot of parents and their children with special educational needs. This bill expand the deadline within which to file a request for due process hearing from ninety (90) days to two (2) years when the request is for reimbursement of costs of a child's placement. It would also require the Department of Education to adopt rules that would provide for the reimbursement of expert witnesses and other fees and expenses associated with a hearing. Parents are at a disadvantage at the IEP meetings because they do not always understand the process or the terms used. Placing yet another requirement upon the parents of having to request a due process hearing within 90 days is extremely burdensome. It is also unfair to require Hawaii's families to be limited by the 90-day limitation when other states apply up to a two (2) year statute of limitations. Even under federal law, a parent could request an impartial due process hearing up to two (2) years of the time a free and

appropriate public education was denied. This bill would confirm our state law to the applicable federal law.

It is equally important to have the Department of Education develop rules for reimbursement of expert witnesses and other expenses. Very often expert witnesses are needed as witnesses at the hearing to explain a child's special needs and disabilities. Currently, these kinds of expenses are rejected and reimbursement is not provided. This bill will level the playing field for special needs children and we urge your Committees to pass this measure.

Thank you for the opportunity to provide testimony in support of this bill.

Committee On Education
The House
February 6, 2008
TESTIMONY IN SUPPORT OF
HOUSE BILL 2186

Chairs Takumi, Berg and members of the House
Committee on Education,

My name is Ryan Sueyoshi. I am a parent of a child with autism. HB 2186 would expand the deadline within which to file a request for due process hearing from ninety (90) days to two (2) years when the request is for reimbursement of costs of a child's placement. It would also require the Department of Education to adopt rules that would provide for the reimbursement of expert witnesses and other fees and expenses associated with a hearing.

As a parent of a disabled child, I have been to individualized education program (IEP) meetings for my child. This is a very stressful and difficult process, and it is not one which is straightforward or collegial. Parents are at a disadvantage at the IEP meetings because we do not always understand the process or the terms used. Placing yet another requirement upon the parents of having to request a due process hearing within 90 days is extremely burdensome. It is also unfair to require Hawaii 's families to be limited by the 90-day limitation when other states apply up to a two (2) year statute of limitations. Even under federal law, a parent could request an impartial due process hearing up to two (2) years of the time a free and appropriate public education was denied.

It is equally important to have the Department of Education develop rules for reimbursement of expert witnesses and other expenses. Very often expert witnesses are needed as witnesses at the hearing to explain a child's special needs and disabilities. Currently, these kinds of expenses

are rejected and reimbursement is not provided.

I strongly support SB 2186 which would level the playing field for special needs children and urge your Committees to pass this measure.

Thank you for the opportunity to provide testimony on HB 2186.

Sincerely,

Ryan Sueyoshi
Parent
1615-A Emerson Street, Apartment A
Honolulu, Hawaii 96813

Committee On Education
The House
February 6, 2008
TESTIMONY IN SUPPORT OF
HOUSE BILL 2186

LATE TESTIMONY

Chairs Takumi, Berg and members of the House
Committee on Education,

My name is Serena Tzeng. I am a parent of a child with autism. HB 2186 would expand the deadline within which to file a request for due process hearing from ninety (90) days to two (2) years when the request is for reimbursement of costs of a child's placement. It would also require the Department of Education to adopt rules that would provide for the reimbursement of expert witnesses and other fees and expenses associated with a hearing.

As a parent of a disabled child, I have been to individualized education program (IEP) meetings for my child. This is a very stressful and difficult process, and it is not one which is straightforward or collegial. Parents are at a disadvantage at the IEP meetings because we do not always understand the process or the terms used. Placing yet another requirement upon the parents of having to request a due process hearing within 90 days is extremely burdensome. It is also unfair to require Hawaii's families to be limited by the 90-day limitation when other states apply up to a two (2) year statute of limitations. Even under federal law, a parent could request an impartial due process hearing up to two (2) years of the time a free and appropriate public education was denied.

It is equally important to have the Department of Education develop rules for reimbursement of expert witnesses and other expenses. Very often expert witnesses are needed as witnesses at the hearing to explain a child's special needs and disabilities. Currently, these kinds of expenses

are rejected and reimbursement is not provided.

I strongly support SB 2186 which would level the playing field for special needs children and urge your Committees to pass this measure.

Thank you for the opportunity to provide testimony on HB 2186.

Sincerely,

Serena Tzeng
Parent
1212 Nuuanu Avenue, Apartment # 1901
Honolulu, Hawaii 96817

Feb 6 2008

Chairs Takumi, Berg and members of the committees,

LATE TESTIMONY

My name is Colleen Lindsey I am the parent of Kellen Dougherty who is 6 years old and Autistic/PDD/NOS Special needs child. My journey into the process of finding a program which helps my child to learn has been a long journey in just less then 2 years. I would like to expand the deadline within which to file a request for due process hearing from (90) days to two (2) years, when the request is for reimbursement of cost of child placement.

I have attended countless IEP's as well as many hours of talking and dealing with many opponents that my son needs in order to learn, speech, OT, life skills and organization. As a parent I have gone through the endless "maze" of a lot of confusion and rules that I do not get a good translation on which makes the process even harder and more confusing to understand!

The people involved in each and every meeting from one institution to another is very hard! Protocal! Its like when your sitting a a round table and start a rumor, once it has come around to you again the rumor or story has been changed dramatically!

The endless certified letters which you must be present to received due to needing your signature and phone calls from each and every able person involved! Can totally confuse, fraustrate and make a parent get so winded up in a bliss of what do I do! Where do I go from here! I have had many sleep less nights and periods of have close to a nervous breakdown, worrying and wondering what will happen to my precious little boy!

I feel if I fail him now and the system does not get better, in the future we as a whole will have a lot to lose!!!! I will be a little rolling snow ball that collects and collects until it becomes and avalanche! As a baby boomer and a older single mom, this scares me to death!!!

Please help me cope and understand the process so as to not let my son sink into a program which is designed to fail. HELP!

Very Very confused mom of a very beautiful child!

Thank you Thank you Thank you!!!!

Colleen Lindsey

Committee On Education
The House
February 6, 2008
TESTIMONY IN SUPPORT OF
HOUSE BILL 2186

Chairs Takumi, Berg and members of the Committees,

My name Erin Ritz, and I am a parent of a child with special needs. HB 2186 would expand the deadline within which to file a request for due process hearing from ninety (90) days to two (2) years when the request is for reimbursement of costs of a child's placement. It would also require the Department of Education to adopt rules that would provide for the reimbursement of expert witnesses and other fees and expenses associated with a hearing.

The process for obtaining an appropriate placement for a special needs child is a daunting one. I have attended a myriad of individualized education program (IEP) meetings for my child, none of which were straightforward or collegial. Parents are at a disadvantage at the IEP meetings because we do not always understand the process or terms used. Once parents find an appropriate placement that is safe for their child, the process of filing for due process is a stressful and confusing one even for the most educated. Further, finding an attorney who will your child's case could take beyond 90 days. Placing this 90 day requirement on the parents is extremely burdensome. This requirement seems much less of a procedural "safeguard," and more of a procedural trap which ultimately ends up hurting the child.

It is extremely unfair to require Hawaii's families to be limited by the 90-day limitation when other states apply up to a two (2) year statute of limitations. Even under federal law, a parent could request an impartial due process hearing up to two (2) years of the time a free and appropriate public education was denied. All of Hawaii's children should be afforded the same protections under the law that their counterparts in every other state.

It is equally important to have the Department of Education develop rules for reimbursement of expert witnesses and other expenses. Very often expert witnesses are required at the hearing to explain a child's special needs and disabilities. Currently, these kinds of expenses are rejected and reimbursement is not provided.

I strongly support SB 2186 which would level the playing field for special needs children and urge your Committees to pass this measure.

Thank you for the opportunity to provide testimony on HB 2186.

Sincerely,



Erin Ritz
381B Kaelepulu Dr.
Kailua, HI 96734
(808) 429-7489

LATE TESTIMONY

AUTISM SOCIETY OF HAWAII

P.O. BOX 2995

HONOLULU, HAWAII 96802

808 228-0122

VIA FAX 586-6051

February 6, 2008

Roy M. Takumi

Chair, Committee on Education
36th Representative District
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Lyla B. Berg, Ph.D.

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email repberg@Capitol.hawaii.gov

Subject: In strong support of HB 2186 RELATING TO EDUCATION

Dear Chair Takumi, Vice-Chair Berg, and members of the House Education Committee:

Thank you for receiving our testimony on HB 2186. The Autism Society of Hawaii is an affiliate chapter of the Autism Society of America. Its members are composed of families who deal with living with the effects of autism spectrum disorders and the professionals and paraprofessionals who serve them. The Autism Society of Hawaii will provide leadership in the field of autism spectrum disorders dedicated to supporting families who advocate on behalf of their children and are committed to reducing the consequences of autism through education, research, and advocacy.

As parents and members of the Individualized Educational Program (IEP) team, we know that these meetings are a very stressful and difficult process, and it is not one which is straightforward

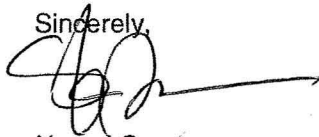
or collegial. Parents are at a disadvantage at the IEP meetings because we do not always understand the process or the terms used. Placing yet another requirement upon the parents of having to request a due process hearing within 90 days is extremely burdensome. It is also unfair to require Hawai'i's families to be limited by the 90-day limitation when other states apply a two (2) year statute of limitations.

Even under federal law, a parent could request an impartial due process hearing up to 2 years of the time a free and appropriate public education is denied.

It is equally important to have the Department of Education develop rules for reimbursement of witness and other expenses. Very often expert witnesses are needed as witnesses at the hearing to explain a child's special needs and disabilities. Currently, these kinds of expenses are rejected and reimbursement is not provided.

The Autism Society of Hawai'i appreciates the opportunity to submit a letter of strong support for House Bill 2186. We look forward to the passage of this bill for Hawai'i's children and level the playing field for special needs children.

Sincerely,

A handwritten signature in black ink, appearing to read 'Naomi Grossman', with a long horizontal line extending to the right.

Naomi Grossman
Autism Society of Hawai'i, president

Teresa Chao Ocampo
215 N. King Street, Apt. 207
Honolulu, HI 96817

February 6, 2008

Senator Roy Takumi, Chair
Senator Lyla Berg, Vice-Chair
The House Education Committee
State Capitol
Conference Room 309
415 South Beretania Street
Honolulu, HI 96813

RE: HB 2186 Relating to Education

Meeting to be held at Conference Room 309, Wednesday, February 6, 2008 at 2:15pm

A. RELATING TO THE EXTENSION OF THE 90-DAY TIMELINE TO 2 YEARS WHEN SEEKING REIMBURSEMENT FOR UNILATERAL PRIVATE PLACEMENT.

My name is Teresa Chao Ocampo and I am writing to express my support for the SECTION of HB 2186 which proposes to give parents the right to file for a due process hearing request within 2 years INSTEAD of 90 days of a unilateral special education placement where the request is for reimbursement of the costs of the placement and related services.

Consider the following facts taken from Hawaii's State Advisory Panel, SEAC (Special Education Agency Council) in their June 8, 2007 report and the DOE's official website.

1. Out 181,355 public school children for the SY 2005-2006, 19,714 children were classified as Special Education.
2. Out of the 19,714 special education children, approximately 188 Due Process Hearing requests were filed between July 1, 2005 and June 30, 2006.
3. Out of 188 due process hearing requests, 45 resulted in a decision. (The other 143 cases were either settled, withdrawn, dismissed without hearing or undecided in this time frame).
4. Out of the 45 cases that resulted in a decision, 29 cases had Private School Placement as an issue and 5 cases had an issue with the 90-day timeline (for a total of 34 cases involving the 90-day timeline and reimbursement of private placement as described in HB 2186).

Currently, HRS 302A-443 as written DISCRIMINATES against the SMALLEST subset of special education children. HRS 302A-443 went into effect on June 24, 2005. It affected literally LESS than two-tenths of one percent of the special needs population out of the 181,355 students enrolled in public school during the school year 2005-2006. Why was a bill created to affect this very, very small, almost negligible population of special needs children?

The Department of Education will argue that "when a parent places a special needs student into a private school AGAINST the DOE's proposal, the DOE has no authority to monitor the student's progress in the private school." However, when the issue is the non-provision of FAPE (Free Appropriate Public Education) and the parents DO NOT AGREE with the DOE's proposal of placement, placing limitations on any type of placement whether it is Private or Public is a denial of FAPE and therefore a violation of IDEA law. When seeking reimbursement, parents are not required to show that their private placement is perfect, only that it is appropriate for the child.

The DOE may believe that its responsibilities are constrained when a student is placed into a private placement, but what about THEIR responsibility TO the special needs children? HRS 302A-443 is designed to take away the ONLY recourse parents have when the ISSUE involves the lack of FAPE and when parents disagree with the DOE's decision of placement for their child. Parents should not be CORNERED into accepting the DOE's placement when they have legitimate concerns. Parents, as equal members of their child's Individualized Educational Program Team, have the right to disagree with ANY proposal that the DOE may offer regarding educational issues for their child.

The AG's office will argue among other things, that it would be difficult for the State to present its case in any due process hearing if the time frame was 2 years. However, with the recent assistance of Hawaii's AG office, parents of special needs children have the Burden of Proof in a due process hearing, not the DOE. With the Burden of Proof on the parents, combined with a 90-day statute of limitation in HRS 302A-443, the Parents do not have ANY type of advantage in ANY situation relating to their special needs child despite what the public may believe.

The purpose of the current 90-day statute of limitations is clear. It is NOT INTENDED FOR THE BENEFIT OF THE CHILD but FOR THE BENEFIT OF THE DEPARTMENT OF EDUCATION. As a parent who has recently experienced this scenario, I have concluded that this short 90-day timeline is designed to:

1. Limit the dollar amount of reimbursement to parents;
2. Discourage parents from requesting a Due Process Hearing by making the process more formidable and intimidating;
3. Put pressure on parents to find an immediate placement that is appropriate for the child;
4. Put pressure on parents to find immediate counsel, making it difficult to file within the 90-day time frame;
5. Limit the options for parents including placement and education choices;
6. Save the DOE money.

The 90-day statute of limitation is UNWARRANTED, UNFAIR and DISCRIMINATORY to those special needs children whose parents seek reimbursement for an APPROPRIATE placement for their child. **If left unchanged, this provision directly conflicts with the intent and purpose of IDEA, which is to:**

- a. **ensure that the rights of children with disabilities and parents of such children are protected,**
- b. **to ensure that all children with disabilities have available to them a FREE APPROPRIATE PUBLIC EDUCATION THAT EMPHASIZES SPECIAL EDUCATION AND RELATED SERVICES DESIGNED TO MEET THEIR UNIQUE NEEDS,**
- c. **to assist States, localities, educational service agencies, and Federal agencies to PROVIDE FOR the education of all children with disabilities.**

IDEA is NOT INTENDED TO LIMIT the educational rights of our special needs children contrary to HRS 302A-443.

The 2 year statute of limitation MUST be reinstated to follow current IDEA law so that the treatment of special education children will be more equitable with any other child in the DOE system as well as the REST of the other 49 States. Please help preserve the RIGHTS of our SPECIAL NEEDS CHILDREN.

- B. RELATING TO THE REIMBURSEMENT OF EXPERT WITNESSES AND RELATED FEES FROM A DUE PROCESS HEARING.

I would consider supporting section (3) of HB 2186 referring to the reimbursement of expert witnesses and other relevant fees and expenses associated with a hearing PROVIDED that this applies ONLY to the Parents as the Prevailing Party. I do not support this portion of the bill if it applies to the Department of Education simply because the funds that the DOE will be using for ANY due process hearing are in part, MY hard-earned taxpayer dollars.

PRIOR to a due process hearing, parents usually incur out of pocket expenses including independent assessments, related services that were not paid by the DOE, tuition at private schools, attorney's retainer fees, earnings lost due to time taken off from work either by one or both parents, provision of child care during the hearing and other hidden costs that are have an undetermined value.

The DOE has a 2.4 billion dollar budget. They can easily afford to spend our TAXPAYER dollars to theoretically fly witnesses to Hawaii, to testify for a fee, to provide free room and board at a luxury hotel and a car for 3 to 5 days for the duration of the hearing. However, to have parents pay for such extravagant expenditures for a due process case hardly demonstrates accountability and responsibility for such expenses. For two working parents living in Hawaii with a gross income of \$150,000, costs could easily start at a minimum of \$15,000 and upwards easily representing 10% or more of their take home pay AFTER taxes. Are parents expected to sacrifice the rest of the family and their basic living needs for such irresponsible spending? Having parents pay for any additional expenses including expert witness fees and other relevant fees would be an unfair financial burden to the parents who may be forced to choose between their family and their Special Needs child especially when the DOE is using TAXPAYER dollars for EACH and EVERY due process case. When the issue is FAPE and the responsibility of the DOE is to PROVIDE this FAPE, parents should not be forced to make this choice.

The ONLY way to make this an equitable provision for our special needs children is to reimburse any expert witness fees and other relevant fees associated with a due process hearing to the parents should they be deemed the Prevailing Party in a Due Process Hearing. This would be no different from any other costs awarded in the decision including attorney's fees and tuition reimbursement when parents prevail. I urge you to take this into consideration when deciding on this bill.

C. RELATING TO THE ESTABLISHMENT OF A STATE APPEALS BOARD FOR THE PURPOSES OF REVIEWING DECISIONS RENDERED BY HEARING OFFICERS.

I do not support the last provision under section (e) of HB 2186 relating to the establishment of an appeals board which would give a state review officer the ability to review the decisions of hearings officers. This section offers no explanation relating to whom, how or what the duties and powers of the proposed appeals board or the state review officer would be. Usually, when due process decisions are appealed, they are referred to Federal court and not State Court since IDEA is a federal law. Without further clarification, this section reads as though it would allow the DOE to have each unfavorable due process decision reviewed by a state review officer. This type of board could further DIMINISH the rights of special needs children and their parents by circumventing the appropriate legal channels. I do not support this provision unless further clarification is provided.

Thank you for allowing me to provide this testimony.

Sincerely,
Teresa Chao Ocampo
Parent of a Special Needs Child

215 N. King Street, Apt. 207

Honolulu, HI 96817
808-585-8641