

Date of Hearing: January 30, 2008

Committee: House Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. 2435, Relating to Early Childhood Education

Purpose: Requires the department of education to increase opportunities for special needs preschoolers to interact with their non-disabled peers. Appropriates funds.

Department's Position: The Department of Education (Department) agrees with the purpose of H.B. 2435, to increase opportunities for special needs preschoolers to interact with their non-disabled peers. Currently, there is limited space in Head Start and other community preschools for children with disabilities who are eligible for services from the Department. The Department currently operates thirty-three inclusion preschool sites in cooperation with Head Start – twenty-two on Oahu, one on the island of Hawaii, seven on Maui and three on Kaua'i. In addition, there are ten preschools operated in cooperation with private organizations for a total of forty-five inclusion classrooms statewide. Many of the sites have a limit of approximately six children with disabilities that may be enrolled which means that approximately 270 out of over 2,000 eligible children are able to participate with their typically developing peers for the majority of their day. Other preschool

children with disabilities are integrated to various degrees with kindergarten classes at their school or participate in joint activities with community preschools. The Department has made a concerted effort to increase opportunities for all special needs preschoolers as appropriate to the individual child. In recent years, however, the efforts have not resulted in significant increases in the number of children able to fully participate in a setting with typically developing peers.

The Department would like to suggest three revisions to the bill, as written.

- On page 3 beginning with line 14, revise to say (b) a special education eligible student may receive special education and related services in a private preschool program that is located on a public school site or in the community, if the services are required by the student's individualized education program.
- On page 3 beginning on line 18, reword to say, (c) Special education personnel may provide services as provided in a student's individualized education plan at any preschool site.
- Regarding page 3 lines 20 – 22, “Special education personnel may also provide services to general education students in a special education classroom.” At this time the

Department receives funding only for children from Junior Kindergarten through 12th grade, and for children aged 3-5 with disabilities. If the intention of this item is to achieve reverse mainstreaming (bringing typically developing children into a setting designed to serve children with disabilities) then the Board of Education and the legislature would need to revise current policies and funding.

The Department supports H.B. 2435 as far as it is consistent with the Individuals with Disabilities Education Act and H.A.R. Chapter 56, and does not replace the current BOE priorities.



STATE OF HAWAII
STATE COUNCIL
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January 30, 2008

The Honorable Roy M. Takumi, Chair
House Committee on Education
Twenty-Fourth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Takumi and Members of the Committee:

SUBJECT: HB 2435 – RELATING TO EARLY CHILDHOOD EDUCATION

The position and views expressed in this testimony do not represent nor reflect the position and views of the Department of Education (DOE).

The State Council on Developmental Disabilities **SUPPORTS THE INTENT OF HB 2435**. The purpose of HB 2435 is to increase opportunities for special needs preschoolers to interact with their non-disabled peers.

This bill provides a mechanism for DOE to partner with parents and private providers in providing opportunities to include classes with students in general education and students in special education.² We defer to the DOE for the financial costs to implement the provisions of this bill.

The Council recognizes the importance and value for preschoolers with disabilities to interact with preschoolers without disabilities in inclusive settings. The benefits include increase in their cognitive, language, and social skills. We support initiatives that increase opportunities for preschool age children to interact with their typically developing peers and appreciate the Legislature's interest and concern in this area.

Thank you for the opportunity to submit testimony supporting the intent of HB 2435.

Sincerely,

A handwritten signature in black ink, appearing to read "Waynette K.Y. Cabral".

Waynette K.Y. Cabral
Executive Administrator



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

January 30, 2008

MEMORANDUM

TO: The Honorable Roy M. Takumi, Chair
Senate Committee on Education

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 2435 RELATING TO EARLY CHILDHOOD EDUCATION**

Hearing: Wednesday, January 30, 2008; 2:00 p.m.
Conference Room 309, State Capitol

PURPOSE: The bill requires the Department of Education (DOE) to increase opportunities for preschoolers with special needs to interact with their non-disabled peers and appropriates funds to increase these opportunities.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the concept of providing opportunities for children with disabilities to interact with typically developing peers. The Department does have a concern about the provision in the bill that recommends that the Department increase the preschool program tuition subsidies to enable all parents to access preschool programs.

The child care subsidies that DHS provides is to meet the needs of the Department's target group of low-income families. Also, the Federal funds provided by DHS for child care can be provided only to those families who are at or below the income threshold of 85% of the State Median Income. Currently, families of children with disabilities that meet the eligibility requirements for child care subsidies through

DHS are reimbursed for a portion of the cost of placing their children into private preschool settings.

General funds will be required for tuition subsidies to those families that do not meet the Department's eligibility requirements for Federal funds. The number of families who will apply for and qualify for this tuition subsidy is unknown. The Department respectfully requests that any funding for this bill not replace nor adversely impact the priorities in the Executive Supplemental Budget.

Thank you for the opportunity to provide comments on this bill.



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
EDUCATION**

RE: HB 2435 – RELATING TO EARLY CHILDHOOD EDUCATION.

January 30, 2008

**ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Takumi and Members of the Committee:

The Hawaii State Teachers Association supports HB 2435. We believe all students, including preschool students with special needs, have the right to free quality public education.

Currently, inclusion classes at all levels of education exist in which students with special needs are given the opportunity to learn and interact with non-special needs students in a regular education classroom. These special needs students may not be with their non-special needs peers for the entire day. However, this arrangement has benefited both special needs and non-special needs students. The special needs students develop a higher level of socialization and developmental gains in language, motor and cognitive skills, along with improved play skills. At the same time, the non-special needs students' developmental gains can be seen as well, as they become more accepting and are more responsive to assist others.

There are in existence, preschools for special needs students on public school campuses. However, the children attending them are not given the same opportunity as the special needs students aforementioned. We believe these special need preschoolers should have the opportunity to be included in a preschool with non-special needs preschoolers in order to obtain the benefits mentioned. This is especially important since education at the preschool level is becoming more widely recognized as important for the betterment of a child's educational development in elementary school and beyond. This bill will give these special needs preschoolers the highly desirable opportunity to interact with non-special needs students and benefit from that experience.

We urge the committee to pass this bill.

Thank you for the opportunity to testify.

HB 2435 Relating to Early Childhood Education

HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON EDUCATION

DATE: January 30, 2008
TIME: 2:00 PM
PLACE: Conference Room 329
State Capitol
415 South Beretania Street

My name is Patricia Lockwood and I am the Executive Director of Hawaii Centers for Independent Living, a non-profit organization operated by and for people with disabilities to ensure their rights to live independently and fully integrated in the community of their choice, outside of institutional care settings. As a non-profit, statewide resource, HCIL serves people of any age with any type of disability. HCIL was founded on the historical constitutional beliefs of civil rights and the empowerment of people with disabilities to have equal access, opportunities, and choices in life, no matter how severe their disability.

This is a key piece of disability community and to me as the grand parent of a child with autism.

I would like you to meet Aiden. Aiden is almost 4 years old and was diagnosed with autism when he was two and a half. Aiden is blessed and its not because he has a grams in the dis biz. His mother placed him in regular day care when he was two years old. He is growing up with his peers. When I asked her why she did this her response to me was why wouldn't I

I hate it when my daughter is right.

That is why this legislation is right. Kids are kids. They need to be with their friends.

I could go on and on about idea and ada...and the the department of education will talk about how the cost of special ed is destroying the system.

What is destroying the system is the fear and prejudice that have lead us to believe that we can segregate children with disabilities.

Childrem are our future, let us invest in them.

January 30, 2008

From: Linda Elento, Member of The Hawaii Down Syndrome Congress

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

Re: January 30, 2008, 2:00pm, 5 copies

HB2435 Relating to Early Childhood Education

This legislative session, we ask the Legislature to make policies flexible enough to consider the needs of each child, the existing programs Hawaii already has, and putting our money where those needs will be met.

The Individuals with Disabilities Education Act – Reauth. 2004

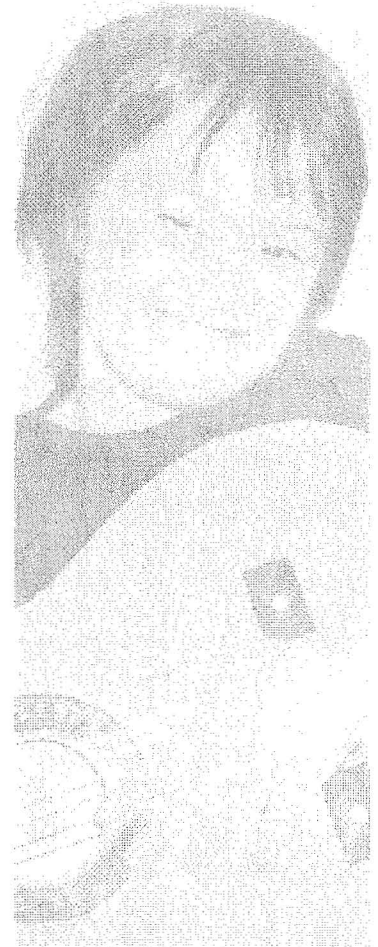
Definition of **Least Restrictive Environment** (Sec. 612, 20 USC 1412)
In general.--To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

✓ Adopt PA's definition of Least Restrictive Environment, to include "that for a preschool aged child, **home** may be the least restrictive environment." [Delaware County Intermediate Unit v. Jonathan S., 809 A.2d 1051 (Pa. Cmwlth. 2002).]

✓ Adopt OK's Continuum of Alternative Placements for Preschool Children (ages 3 through 5): **Home**, Early Childhood Setting, Early Childhood Special Education, Part-time Early Childhood/Part-time Early Childhood Special Education, Itinerant Services Outside the Home, Reverse Mainstreaming, Separate School, Residential Facility (Oklahoma Policies and Procedures for Special Education, 2000, p. 117-118]

✓ Adopt The Pennsylvania Code 12.16 definition of PreKindergarten—"A program operated by a school district or by a community agency under contract from a school district that is open to children who are at least 3 years of age and completed prior to the school district's entry age for kindergarten, **unless individual exception to the age requirements are made by the school district.**" (emphasis added)

Complying with the Felix Consent Decree is not the same as implementing and complying with the IDEA 2004. Complying with the IDEA 2004 does not mean our State has chosen laws and policies flexible to meet the needs of our children with disabilities.



The IDEA federal law does not require all children with disabilities, including Down syndrome, to be included only with chronological age matched peers. Yet, a quote in the SCR17 (2007) Report to the Legislature added “same age” to the original quote and deleted the last two sentences. The report accurately reflects a definition of inclusion for children with Down syndrome as well as the need and benefits of using sign language and speech simultaneously.

ORIGINAL QUOTE: “Guidelines to Support the Early Intervention Process: Inclusion” Page 5:
“Belonging is a basic need of every person . In order for children to belong, they need to be able to participate in every day activities with their peers . They need to have access to the same social and learning opportunities that they would have if they did not have a disability . Successful implementation requires appropriate supports and services to be in place . Many individuals, agencies and fiscal entities must collaborate to ensure that successful inclusive opportunities are available . A true commitment from all entities is vital . All children are our children.”

QUOTE FROM SCR 17 REPORT: Page 10 (of 42): “Belonging is a basic need of every person . In order for children to belong they need to be able to participate in every day activities with their same age peers . They need to have access to the same social and learning opportunities that they would have if they did not have a disability . Successful implementation requires appropriate supports and services to be in place . Many individuals, agencies and fiscal entities must collaborate to ensure that successful inclusive opportunities are available . ~~A true commitment from all entities is vital . All children are our children.~~”

✓Time to update **§321-353 Hawaii early intervention coordinating council; establishment**, with no limit on number of members, and rename to Hawaii Early Intervention Interagency Coordinating Council to emphasize “interagency,” and to advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State. Appropriate money for this council. [20 USC Sec. 1441 , IDEA Sec. 641]

Why? To align with the Individuals with Disabilities Education Improvement Act of 2004; to include specific requirements for organization, members, and responsibilities. To bring attention to this federally-mandated council and its critical position of improving and sustaining services of the Early Intervention programs pursuant to the mandates of IDEA Part C. To encourage new membership, appointments, interagency agreements, and to fulfill all responsibilities according to the Federal Law 20 USC Sec. 1441 [Title 20 – Education; Chapter 33 - Education of Individuals With Disabilities; Subchapter III - Infants And Toddlers With Disabilities].

Require the Department of Education to work with other state agencies, parents, school districts and early childhood providers to assure that the barriers to activities and locations of typically developing children for preschoolers with disabilities are eliminated. Hawaii parents of children with disabilities ages 3 to 5 do not have any choice but to have their services dictated by the DOE; yet Congress gave the new “Part C” option to allow families to continue in the Early

Intervention program (which focuses on the family as the child's first teacher and does not allow for disruption of services and service providers) *in lieu of* changing to the Part B preschool program offered by the DOE. Other states have flexibility already built in their Part C and Part B transitions; whereas, Hawaii does not. Allowing for these optional policies for Hawaii families and keiki is the purpose we seek in the HB531 task force.

✓Specify that Special Ed Preschool continuum for placements include HOME. Mandated federal reporting specifically names HOME as a setting for preschool (PA, GA, OK and other states).

✓Include a deadline for a complete review of IDEA program Eligibility Requirements and Definitions, to be reported to the Legislature (not only to the US DOE).

✓Require the BOE members/staff to work with the DOE, DOH, DHS to organize funding options for services for children with disabilities, and consider block grants, TANF, Title I, etc., with new possibilities to better meet the needs of our children.

✓Include in HRS: Related services to specifically include and authorize funds for **Unique Communication Mode** such as the simultaneous usage of speech and sign language.

Written Testimony presented to the Legislature regarding HR231 (2006):

"Kapi'olani CC is proud of its service to the deaf community and if that service can be extended to others who might benefit, even better." John Morton, Interim Vice-President for Community Colleges University of Hawai'i, 808-956-7038, Apr. 18, 2006.

"My son called me "momme" for the first time at 4 ½ years old, yet he signed "mother" since he was 2 years old." Our 7-year-old son does not have autism and is not deaf. He has Down syndrome and uses sign language to be understood and to learn, while taking the required time needed to develop intelligible speech due to his disability. Linda Elento

Federal Regulations discuss the definition of Native Language and also clarifies that for individuals with deafness or blindness, or for individuals with no written language, the native language is the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication). 20 U.S.C. 1401(20))

HR231 (2006): Coordinated sign language instruction (DOE, UH, DOH). Policies to allow for flexible choices, not limited to no choices. Appropriate funds for Teleschool (teach and play PBS Hawaii's Signing Time! in all preschool classrooms and at home and Lynn Kleiner's music DVDs (educational expert). Continue appropriating funds for DOE's Families for REAL so that more communities may start a program.

✓Revise HRS 302A-1143 **Attend school in what school district.**

(1) "*Geographic exception*" means permission to attend a school other than the pupil's home school as determined by the pupil's legal residence. (2) The department shall not deny a geographic exception on the basis of a pupil being eligible, or previously eligible, or suspected eligible, for special education and/or related services. (3) The department shall not require a geographical exception for a pupil to attend a Hawaiian language medium education program,

receive a special education placement (as defined by federal law), receive a gifted and talented placement by the department [consider charter schools and foster children, siblings].

Reference: §302A-444 Programs for gifted and talented children. §302H Hawaiian language medium education.

Reference: HB3322 Special Education in Public Charter Schools

HRS §302B-15 Responsibilities of department of education; special education services with the purpose of specifying a public charter school's choice **to request special education services**, funds, or both, per IDEA 2004 (not the DOE "may offer" staff, funds or both to the charter school). Without this revision, Public Charter Schools cannot serve children with disabilities based on the foundation and definition of public charter school: "...that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management." [34 CFR §300.241]

The DOE's practice is to have the public charter school's DOE district office provide staff for special ed services (not to give the charter school the funds to provide the special ed services in their own manner).

In Hawaii, many children no longer receive early intervention services when they turn three years old because they do not meet the requirements for special education preschool services through the DOE. The Governor allowed a bill to become law to establish a task force to study the idea of extending the early intervention services beyond a child's third birthday.

Unfortunately, the Act 289 (2007) "3-5" Transition Task Force did not specifically address recommendations for children who qualify for the federal law's IDEA Part C extended early intervention services *in lieu of* Part B special education preschool services when they turn three year olds. Children in particular who need this option include children who were born with very low birth weight, fetal alcohol syndrome, Down syndrome and autism.

✓ Three components would contribute to the feasibility of this option: (1) the federal money that would be spent for the special education preschool child would follow that child to be spent on the continued early intervention services; (2) the Legislature could assure that state general funds that are being spent on special education preschool services would also "follow the child" to be spent on early intervention services instead; (3) the Department of Health could replicate the state-funded positions and programs (such as the Inclusion Project and Keiki Care Project) that currently serve preschoolers with disabilities and the community programs who enroll them.

✓ Adopt New York's law which allows children receiving early intervention services (Part C) who turn three after August 31, to delay entering Part B program until the following January. In addition, the law allows children receiving early intervention services (Part C) who turn three on/before August 31, to delay entering Part B program until Sept. 1. If a child continues early intervention services, the child is not eligible for Part B at the same time. [New York Public Health Law Section 2541].

✓ Another state allows children who turn three do not necessarily have to change services and providers. The only change is the funding source (Lead educational agency vs. the Lead early intervention services agency).

✓ Real inclusion means these preschool age children being included at Keiki O Ka Aina, Families for REAL, home, HIPPIY, private preschools, MOPS (Mothers of Preschoolers), grandma's house, and home childcare programs – not necessarily a full-day in a small classroom with only a handful of other children with disabilities.

IDEA Sec. 614 Individualized Education Program is the IEP. IEP Teams must consider the **academic, developmental, and functional needs** of the child.

✓ Review and compare HRS with the requirements of the IDEA 2004:

§302A-436 Departmental duty toward exceptional children.

§302A-442 Occupational therapy services, physical therapy services, school health services, mental health services, psychological services, and medical services for diagnostic or evaluative purposes. [L 1996, c 89, pt of §2; am L 2000, c 123, §1]

✓ Include in HRS: Related services to specifically include and authorize funds for **Music Therapy**. The Department of Human Services recently awarded Hawaii's only center dedicated to serving individuals who benefit from music therapy.

The Individuals with Disabilities Education Act – Reauth. 2004

Definition of **child with a disability**. [IDEA 2004, Sec. 602]

(A) In general.--The term 'child with a disability' means a child--

``(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

``(ii) who, by reason thereof, needs special education and related services.

``(B) Child aged 3 through 9.--The term 'child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child--

``(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and

``(ii) who, by reason thereof, needs special education and related services.

Thank you for the opportunity to share this information.

Linda Elento, Member of The Hawaii Down Syndrome Congress
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