

Date of Hearing: February 4, 2008

Committee: Senate Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: S.B. No. 2122, 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 S.B. 2122.

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:

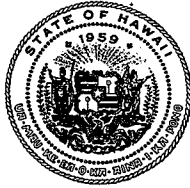
- 1) The advisory panel must consist of members appointed by the Governor, or any other official authorized under state law to make such appointments.
 - The appointment of the members to the council by the Governor is contrary to Section 26-35 that provides that whenever any board or commission is placed 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.

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Education

SB 2122, Relating to Education

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 4, 2008, 1:15 pm

1 **Department's Position:** The Department of Health respectfully opposes the bill in its current form
2 as it does not address the full scope of the responsibilities defined in the federal law, and is duplicative
3 of ongoing efforts.

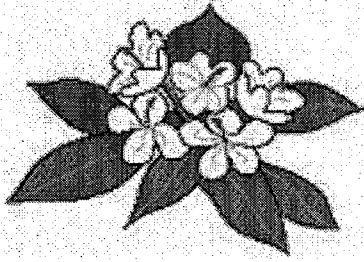
4 **Fiscal Implications:** Department of Health staff time to participate on two councils. Department of
5 Health will send representatives from the Child and Adolescent Mental Health Division, Developmental
6 Disabilities Division and Family Health Services Division-Early Intervention Services to participate.

7 **Purpose and Justification:** This measure proposes to codify a requirement in the federal Individuals
8 with Disabilities Education Act (IDEA) to establish a special education advisory council. The council
9 shall consist of twenty-two members that are broadly representative of the state population, and the
10 majority of members shall be individuals with disabilities or parents of children with disabilities. The
11 council shall submit an annual report of council activities and suggestions to the department of
12 education.

13 Currently, there exists a special education advisory council convened by the Department of
14 Education charged with carrying out specific requirements of IDEA. Department of Health
15 representatives from the Child and Adolescent Mental Health Division, Developmental Disabilities

1 Division, and Family Health Services Division-Early Intervention Services participate on the council.
2 This special education advisory council has been working on multiple issues to meet the requirements of
3 the federal law. Department of Health staff who participate on the existing council report that the
4 council is inclusive of families of children with special needs, the council is operating smoothly, and that
5 the Department of Education and Superintendent have been receptive and responsive to the council's
6 recommendations. This measure would create redundancy with current efforts or jeopardize a
7 successful partnership.

8 We thank you for the opportunity to testify on this matter.



S E A C
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February 4, 2008

**Special Education
Advisory Council**

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

Ms. Janet Bamford
Dr. Paul Ban, *Liaison
to the Superintendent*
Ms. Sue Brown
Ms. Deborah Cheeseman
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Mr. Wilfred Young

TESTIMONY TO THE SENATE COMMITTEE ON EDUCATION

RE: SB 2122 - Relating to Education

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

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.

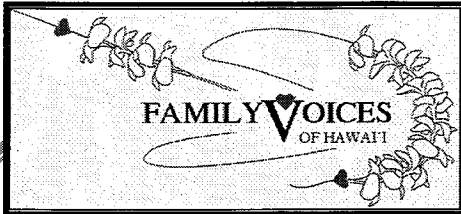
The Council's opposition to SB 2122 is based on the following:

- * 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
- * SB 2122, 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 30, 2008

To: COMMITTEE ON EDUCATION

Senator Norman Sakamoto, Chair

Senator Jill N. Tokuda, Vice Chair

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

Re: SB 2122 – Opposition to RELATING TO EDUCATION: Establishes special education advisory council in chapter 302A, HRS

On behalf of Family Voices of Hawai'i, I **oppose** SB 2122.

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 SB 2122, 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.

Subject: SB 2122 Testimony

February 1, 2008

The Honorable Norman Sakamoto
Chair, Senate Education Committee

RE: SB 2122: Special Education Advisory Council; Education

Senator Sakamoto and members of the committee:

The 17 Community Children's Councils in Hawaii strongly oppose this bill. Our brochure is attached.

The Seventeen Community Children's Councils (CCCs) of Hawaii oppose the intent of SB 2122 for the following reasons:

- 1) IDEA 2004 does not require the Governor to appoint the Special Education Advisory Council
- 2) House Bill 2029 is not in keeping with IDEA 2004
- 3) SEAC has a long standing advisory role to the Superintendent of Education for over 30 years
- 4) This relationship has proven positive on behalf of students with disabilities, families and the Department of Education

If there are any questions please contact the Community Children's Council Office,

On behalf of,

Tom Smith, Professional Co-Chair
Co-Chair

Charlotte Kamauoha, Parent

Signatures available upon request