

**SB 2122**

**RELATING TO EDUCATION.**

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

COMMITTEE ON EDUCATION

Senator Norman Sakamoto, Chair

Senator Jill N. Tokuda, Vice Chair

Monday, February 4, 2008

1:15 pm

Conference Room 225

State Capitol

415 South Beretania Street

My name 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.

**HCIL stands in strong support of this measure.**

We expect that other members of the current Special Education Advisory Committee will tell you there is already a committee, that it already works well. This has not been the experience of the persons we work with. I ask you two questions. If this committee has been in place for twenty years and works so well why did we have the Felix Consent Decree?

If this committee works so well why are so few of our youth with disabilities going onto higher education or into jobs?

At this point in time the largest group of people who are unemployed is people with disabilities. It is not because they cannot work. It is not because they do not want to work. It is because the educational system does not give them the skills they need to be competitive in the work place.

Last year we were amazed but not amused when the state department of education made a statement of what a drain on the finances of the school system students with disabilities were. (See remarks in Honolulu Advertiser January 1, 2007) Our question is this. If the present committee is so effective why are so many parents seeking legal action against the school system? What is the cost of not providing services required by law in terms of staff time and attorneys fees paid by the Board of Education. Wouldn't it be better to have a committee that reflected the new paradigm within IDEA so services can be provided in greater alignment with the federal law. The way Special Education services have been provided has changed a great deal over the last twenty years. Its time the Advisory committee's makeup changes to come more in line with the intent or the federal law.



L A T E

**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
919 ALA MOANA BOULEVARD, ROOM 113  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
February 4, 2008

The Honorable Norman Sakamoto, Chair  
Senate Committee on Education  
Twenty-Fourth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Senator Sakamoto and Members of the Committee:

**SUBJECT: SB 2122 – RELATING TO EDUCATION**

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

The State Council on Developmental Disabilities **DOES NOT SUPPORT SB 2122**. The purpose of SB 2122 is to establish a Special Education Advisory Council in Chapter 302A, Hawaii Revised Statutes with members to be appointed by the Governor.

The proposed language in the bill does not address the full scope of the responsibilities for the advisory panel as defined in the Individuals with Disabilities Education Act of 2004. The special education advisory panel described in the bill is currently operating as the Special Education Advisory Council (SEAC) and meets requirements under IDEA 2004. SEAC has been advisory to the DOE and has maintained a positive and productive relationship with the Superintendent of DOE.

The Council feels this bill is unnecessary, as it would duplicate ongoing efforts of the existing SEAC. We would prefer resources to implement this bill to go to direct services for children with disabilities.

Thank you for the opportunity to provide testimony regarding SB 2122.

Sincerely,

Waynette K.Y. Cabral  
Executive Administrator

# LATE TESTIMONY

ATTN: COMMITTEE ON EDUCATION

Senator Norman Sakamoto, Chair

Senator Jill N. Tokuda, Vice Chair

RE: NOTICE OF HEARING

DATE: Monday, February 4, 2008

TIME: 1:15 pm

PLACE: Conference Room 225

State Capitol

415 South Beretania Street

I'm writing testimony as a member of the Hawaii Down Syndrome Congress in support of the following bills as they relate to children with disabilities.

My son is 28 months old. I am a working mom and my son attends child care and receives early intervention services. I see the benefits of early intervention for my son, who's at a development age of 18 months. He'll soon be required to leave the early intervention program by age 3 and I may choose to send him to special education, however, I am not so assured that sending him to special education is appropriate for him considering his developmental delay. I feel extending the early intervention program will provide the increased time needed to develop abilities to be successful for the transition to special education. Yes, I am in support of the following bills that support the cause and benefit of our special education children in the state:

*SB2122, SB2138, SB2288*  
SB 2004

Testimony     HEARING AT 3:00pm:

RELATING TO EDUCATION.

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. Requires the department to adopt rules that provide for the reimbursement of expert witness and other relevant fees and expenses associated with a hearing. Requires the establishment of an appeals board and process wherein a state review officer shall review the decisions of the impartial hearings officers.

Thank you for your time and attention!

*Aloha,*

*Belle*

@ 391-2681

Maribelle Meno [smeno@hawaii.rr.com]

# LATE TESTIMONY

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

To: Senator Norman Sakamoto, Chair, Senate Education  
Senator Jill Tokuda, Vice Chair, Senate Education  
Senate Education Committee

Re: EDU February 4, 2008, 1:15pm

## **SB2122** In Support with Amendments Special Education Advisory Council; Education

Thank you for this opportunity to testify in support of SB2122.

### *The Individuals with Disabilities Education Act – Reauth. 2004 Part B*

requires the State to 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. This panel is a critical arm in our state to implement the IDEA.

Similarly, IDEA 2004, Part C requires an interagency coordinating council, which has been established in HRS [§321-353 Hawaii early intervention coordinating council; establishment.] and includes “Members shall be appointed for three-year terms by the governor without the necessity of the advice and consent of the senate.” Yet, HRS does not establish Part B required State Advisory Panel.

### Please consider the following amendments to SB2122:

Add a provision that would name Hawaii’s Special Education Advisory Council (SEAC) as the IDEA-mandated State Advisory Panel with current members to remain until term expires, with new members elected per the new Hawaii Revised Statute.

Page 2, Line 7 insert: at least 22 members.

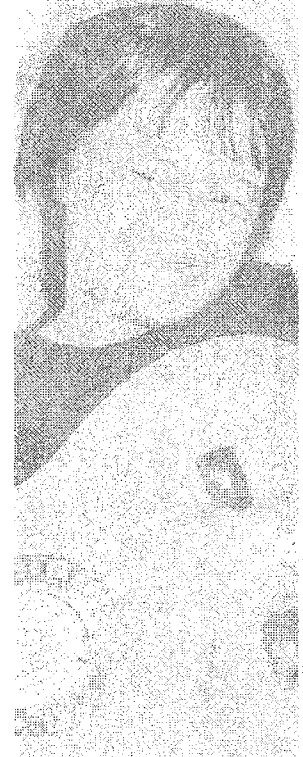
Page 2, Line 8 consider insert: without the necessity of the advice and consent of the senate. [Similar to 321-353 Hawaii Early Intervention Coordinating Council]

Page 4, Section (b) insert: Members are limited to two consecutive terms. Student representative is limited to one term.

Attached is a comparison SB2122, the federal requirements for the State Advisory Panel Membership and Duties, and Hawaii’s existing SEAC’s By-Laws, so you may identify further amendments to match the proposed SB2122 with the IDEA requirements.

My research: The Legislative Research Bureau provided the following guidance: Guide to Government 13<sup>th</sup> edition (at their website) which does not list SEAC. The State Constitution; HRS Sec. 26-34 and 26-35 regarding Boards and Commissions. It is unclear if SEAC was established as a Board and Commission which would determine if the requirements of Sect. 26 apply to appointments by the department head and limits of consecutive terms for members. The Governor’s Boards and Commissions office could not provide additional information about SEAC. The Attorney General’s office has not yet returned my phone call from last Thursday.

My experience: Last year my application to be a member was rejected by SEAC because the category of a parent and my geographic location were filled. Early last year, SEAC added public comments to the meeting agenda. As described in the meeting minutes posted on-line, I acknowledged the ASL interpreter at the meeting as Jason’s former ASL tutor and Jason’s need for simultaneous usage of speech and sign, yet the DOE would not provide for his need, due to his disabilities.



Attachment:

<p><b>SB2122</b></p>	<p><b>Federal IDEA Requirements</b>          IDEA ``SEC. 612. &lt;&lt;NOTE: 20 USC 1412.&gt;&gt; STATE ELIGIBILITY.          `` (a) In General.--A State is eligible for assistance under this part for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions: [<a href="http://idea.ed.gov">idea.ed.gov</a> for links to Statute and Regulations]</p>	<p>Hawaii's Special Education Advisory Panel (SEAC) is named as this panel as follows, taken from the SEAC By-Laws [<a href="http://www.spinhawaii.org">www.spinhawaii.org</a>]:</p>
<p>(1) <u>Individuals with disabilities;</u>          (2) <u>Parents of children with disabilities (ages birth through 26);</u>          (3) <u>Students with disabilities;</u>          (4) <u>Teachers (regular and special education) of children with disabilities;</u>          (5) <del>The special education section, department of education State and local 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.);</del>          (6) <u>Private schools and public charter schools;</u>          (7) <u>The University of Hawaii and other</u></p>	<p>`` (21) State advisory panel.--          `` (A) In general.--The State has established and maintains 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.          `` (B) Membership.--Such advisory panel shall consist of <u>members appointed by the Governor, or any other official authorized under State law</u> to make such appointments, be representative of the State population, and be composed of individuals involved in, or concerned with, the education of children with disabilities, including--          `` (i) parents of children with disabilities (<u>ages birth through 26</u>);          `` (ii) individuals with disabilities;          `` (iii) teachers;          `` (iv) representatives of</p>	<p><b><u>Membership shall be by appointment of the Superintendent.</u></b> There shall be at least 22 members which shall be broadly representative of the State population and composed of individuals involved in or concerned with the education of children with disabilities. The majority of members shall be individuals with disabilities or parents of children with disabilities.          The membership must include persons representing each of the following groups and at least one member of the Council shall be from each administrative school district:</p> <ol style="list-style-type: none"> <li>1. Individuals with disabilities</li> <li>2. Teachers (regular and special education) of children with disabilities</li> <li>3. Parents of children with disabilities</li> <li>4. Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities</li> </ol> <p><b>a. Department of Health Child and Adolescent Mental Health Division</b></p>

institutions of higher education that prepare special education and related services personnel;  
(8) Administrators of programs for children with disabilities;  
(9) State agencies involved in the financing or delivery of related services to children with disabilities, including the:  
(A) Department of health child and adolescent mental health division, developmental disabilities division, and family health services division;  
(B) Department of human services division of vocational rehabilitation, and child protective services;  
(10) Vocational, community or business organizations concerned with provision of transition services to children with disabilities; and  
(11) State juvenile and adult corrections agencies.

institutions of higher education that prepare special education and related services personnel;  
``(v) State and local 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.);  
``(vi) administrators of programs for children with disabilities;  
``(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;  
``(viii) representatives of private schools and public charter schools;  
``(ix) not less than 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;  
``(x) a representative from the State child welfare agency responsible for foster care; and  
``(xi) representatives from the State juvenile and adult corrections agencies.  
``(C) Special rule.--A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities (ages birth through 26).

**Developmental Disabilities Division  
Family Health Services Division  
b. Department of Human Services  
Division of Vocational Rehabilitation  
Child Protective Services  
5. Special Education Section, Department of Education  
6. University of Hawaii and other representatives of other institutions of higher education that prepare special education and related services personnel  
7. State and local education officials  
8. Students with disabilities  
9. Administrators of programs for children with disabilities  
10. Representatives of private school and public charter schools  
11. Representative of a vocational, community or business organization concerned with provision of transition services to children with disabilities  
12. Representatives from the State juvenile and adult corrections agencies**

**Council members shall serve without compensation, but the State must reimburse members for reasonable and necessary expenses for attending meetings and performing duties.**

**The mission of the Council is to guide and assist the Hawaii Department of Education in fulfilling its responsibility to meet the individual needs of children with disabilities in accordance with the state and federal**

<p><u>Duties.</u> --The advisory panel shall--</p> <p>((i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;</p> <p>((ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;</p> <p>((iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;</p> <p>((iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and</p> <p>((v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.</p>	<p>((D) <u>Duties.</u> --The advisory panel shall--</p> <p>((i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;</p> <p>((ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;</p> <p>((iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;</p> <p>((iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and</p> <p>((v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.</p>	<p>laws.</p> <p><b>Functions of the Council</b></p> <ol style="list-style-type: none"> <li>1. To advise the Department of Education of unmet needs and any other issues or concerns within the state in the education of students with disabilities.</li> <li>2. To comment publicly on the rules or regulations proposed for issuance by the State regarding the education of children with disabilities.</li> <li>3. To advise the <b>Department of Education</b> in developing evaluations and reporting on data to the <b>Secretary of Education, U.S. Department of Education</b>, in the performance of his/her responsibilities under <b>Section 618 of the Individuals with Disabilities Education Act.</b></li> <li>4. To advise the <b>Department of Education</b> in developing corrective action plans to address findings identified in the Federal monitoring reports.</li> <li>5. To advise the <b>Department of Education</b> in developing and implementing policies relating to the coordination of services for children with disabilities.</li> <li>6. To monitor the implementation of activities and timetable pursuant to consent decrees or court orders regarding the education of children with disabilities.</li> </ol>
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