



*THE JUDICIARY, STATE OF HAWAII*

**Testimony to the Twenty-Fourth Legislature, 2008 Session**

Senate Committee on Education  
The Honorable Norman Sakamoto, Chair  
The Honorable Jill N. Tokuda, Vice Chair

Senate Committee on Judiciary and Labor  
The Honorable Brian T. Taniguchi  
The Honorable Clayton Hee, Vice Chair

Wednesday, February 6, 2008 @9:00 a.m.  
State Capitol, Conference Room 016

by

The Honorable Frances Q.F. Wong  
Senior Judge/Deputy Chief Judge  
Family Court, First Circuit

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** Senate Bill No. 2879, Relating to Education.

**Purpose:** Establishes a power of attorney for special education; establishes the process to appoint a surrogate decision maker for an adult student that lacks capacity; and clarifies the authority of a guardian of an adult student.

**Judiciary's Position:**

The Judiciary takes no position on this measure, but offers the following comments so that persons truly needing to file a guardianship petition are not misinformed.

In the Family Court of the First Circuit, a large percentage of petitioners who initiate guardianship actions are self-represented and are thus able to avoid the cost of an attorney. The Court offers a "do-it-yourself" packet which is used by many parties. The Family Court service center and court staff offer procedural assistance. There is also an on-site Legal Aid desk. The forms are also available on the Judiciary's website at [www.courts.state.hi.us/Forms/Oahu/Family Court/guardianship](http://www.courts.state.hi.us/Forms/Oahu/Family%20Court/guardianship)). Due to increasing volume and increasingly



Senate Bill No. 2879, Relating to Education  
Senate Committees on Education and Judiciary and Labor  
Wednesday, February 6, 2008  
Page 2

complex cases, it does take several months for a hearing to take place. Hopefully, the two Judges authorized by the last Legislature will ease this strain once the positions have been funded.

Thank you for the opportunity to submit testimony on this matter.

Date of Hearing: February 6, 2008

Committee: Senate Education/  
Judiciary and Labor

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: S.B. No. 2879, Relating to Education

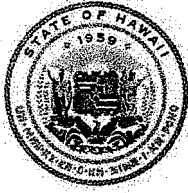
Purpose: Amends section 302A for advance special education directives; to provide an array of options for when a student reaches the age of 18, regarding the transfer of rights, with respect to the student's education.

Department's Position: The Department does not support S.B. No. 2879. While the Department recognizes a need for options for parents and students with regard to the transfer of rights when a student reaches the age of majority (18), it has concerns as it is currently drafted. Of note is a single individual making the determination of whether an adult student is incapacitated. Having a single individual determine if the student is incapacitated, especially in lieu of a judicial process, is limited in providing safeguards to ensure the protection of the rights of the adult student. Additionally, the bill does not align with the current implementation of the Individualized Education Program (IEP) process §8-56-3 (c) which requires a team approach towards the

development of the student's IEP. Specifically, as currently drafted, the bill can be interpreted as giving the person authorized to make educational decisions on behalf of the adult student the legal authority to direct a teacher and/or institution, which is beyond the rights afforded to a parent, and would not be appropriate.

While alternatives regarding legal guardianship and the transfer of rights need to be explored, the language and the process, as currently drafted, is insufficient in providing the necessary safeguards to ensure the educational rights of an adult student.

As such, the Department is unable to support S.B. No. 2879 as it is written.



**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 6, 2008

The Honorable Norman Sakamoto, Chair  
Senate Committee on Education  
and  
The Honorable Brian T. Taniguchi, Chair  
Senate Committee on Judiciary and Labor  
Twenty-Fourth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Senators Sakamoto and Taniguchi and Members of the Committees:

**SUBJECT: SB 2879 – RELATING TO 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 SB 2879**. The purpose of SB 2879 is to establish a power of attorney for special education; a process to appoint a surrogate decision maker for an adult student that lacks capacity; and clarify the authority of a guardian of an adult student.

The Council is a member of the Chapter 56/60 Community Workgroup that was convened by DOE in June 2007 to provide DOE with input and recommendations to establish administrative rules to implement the Individuals with Disabilities Education Act of 2004. One of the recommendations of the Workgroup was to offer alternatives to guardianship for adult students with a disability receiving special education and related services from DOE.

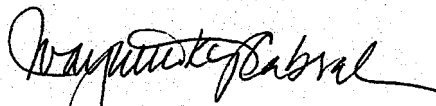
The Council endorses this bill as it provides options other than guardianship for an adult student with a disability to make decisions about his/her education endeavors. In Hawaii, when a student reaches age 18 years, it is a given assumption that the student can provide informed consent and make educational decisions. Parents who were involved with their son's/daughter's education no longer have the right to participate or intervene on their son's/daughter's educational matters. In order to continue to be involved, the only alternative is to pursue guardianship.

The Honorable Norma Sakamoto  
The Honorable Brian T. Taniguchi  
Page 2  
February 6, 2008

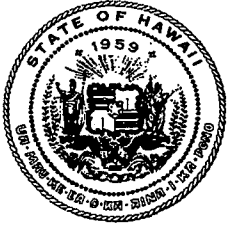
SB 2879 provides less restrictive alternatives (power of attorney and surrogate decision maker) for parents to remain involved if their son/daughter is not capable of making educational decisions.

Thank you for the opportunity to provide testimony in support of SB 2879.

Sincerely,

A handwritten signature in black ink, appearing to read "Waynette K.Y. Cabral". The signature is fluid and cursive, with a long horizontal stroke at the end.

Waynette K.Y. Cabral  
Executive Administrator



LATE TESTIMONY

**DISABILITY AND COMMUNICATION ACCESS BOARD**

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814  
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

February 6, 2008

Testimony to the Senate Committees on Education and  
Judiciary and Labor

S.B. 2879 Relating to Education

The Disability and Communication Access Board (DCAB) supports SB 2879 Relating to Education that establishes power of attorney for special education, the process to appoint a surrogate decision maker for an adult student who lacks capacity, and clarifies the authority of a guardian for an adult student.

The parents of a student with a disability make the majority of educational decisions until the student becomes eighteen years old. At that time, the student is considered an adult under Hawaii law and considered capable of making his or her own educational decisions, unless already determined to be incapable of making decisions.

This bill offers the adult student with a disability the option to execute a power of attorney limited to the purposes or participation in the individualized education plan process. Using such a power of attorney will allow the parent, spouse, or authorized agent of the adult student to participate in meetings and other procedures related to the student's educational program. Through granting a power of attorney, the student with a disability is still able to make other types of life decisions independently. We believe this method of assisting the student with a disability make educational decisions is the in the best interest of the adult student. It does not deem the person incompetent, but instead preserves the person's right to make other decisions on of his or her own behalf.

We defer to the Department of Education regarding the amount of money necessary to promulgate rules related to transfer of rights as delineated in this bill.

Thank you for the opportunity to testify.

Respectfully submitted,

PATRICIA M. NIELSEN  
Chairperson  
Legislative Committee

FRANCINE WAI  
Executive Director



## HAWAII DISABILITY RIGHTS CENTER

900 Fort Street Mall, Suite 1040, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

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

**To:** Senate Committee on Education.  
Senate Committee on Judiciary and Labor.

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

**Re:** Senate Bill 2879  
Relating to Education

**Hearing:** Wednesday, February 6, 2008 9:00 AM  
Conference Room 016, State Capitol

Members of the Committee on Education:  
Members of the Committee on Judiciary and Labor:

Thank you for the opportunity to provide testimony supporting Senate Bill 2879, 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. We represent a lot of parents and their children with special educational needs. Needless to say, many of these parents are quite involved with the efforts to protect their children and to provide them with the best possible educational opportunities. As long as the children are under the age of eighteen, there are no legal obstacles presented to their participation. However, once the student does attain the age of eighteen, then there are legal ramifications whereby the parent may not have the same set of rights in terms of remaining involved and being able to participate in the proceedings relative to the educational needs of the child.

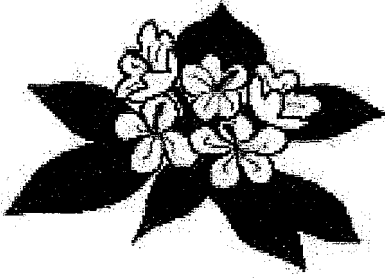
This bill remedies the current situation where the parent may be forced to apply for guardianship in order to continue to participate. It creates alternative remedies such as a power of attorney for special education or the appointment of an





educational surrogate. These are both less restrictive methods than guardianship and are very useful tools and we support these efforts. We urge the Committees to act favorably upon this measure.

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



**S E A C**  
**Special Education Advisory Council**  
919 Ala Moana Blvd., Room 101  
Honolulu, HI 96814  
Phone: 586-8126 Fax: 586-8129  
email: spin@doh.hawaii.gov

February 6, 2008

**Special Education  
Advisory Council**

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

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

**TESTIMONY TO THE SENATE COMMITTEES ON EDUCATION  
& JUDICIARY AND LABOR**

**RE: SB 2879 - Relating to Education**

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under the Individuals with Disabilities Education Act (IDEA), is in **strong support** of the above legislation establishing a Power of Attorney for special education and a process to appoint a surrogate decision maker for adult students who do not have the capacity to make informed educational decisions on their own behalf.

The Council has been seeking expanded transfer of right options beyond guardianship since 2004 when we became aware that schools were enforcing the IDEA 97 language which required a parent to secure formal guardianship in order to continue involvement in educational decisions, in cases where the student is clearly not able to make an informed choice about educational decisions. The Department clarified that Hawaii law did not allow for the alternate mechanism listed in IDEA's special rule under the Transfer of Rights.

SEAC also questioned the inconsistent honoring of Power of Attorneys by schools when students who had reached the age of majority wished to have their parents make educational decisions on their behalf. Again, the Department clarified that schools were not required to accept a Power of Attorney signed by an adult student.

The Council then researched transfer of rights options included in the special education regulations of other states, including Maryland's determination that parental rights do not transfer to children with disabilities on reaching the age of majority, except under limited circumstances. We found Virginia's regulations to be the most comprehensive, as they offered the options of guardianship, Power of Attorney and a certification process that appoints a surrogate decision maker. Through our participation with the Chapter 56/60 Community Work Group we were able to reach group consensus that similar



SB 2879  
February 6, 2008  
Page 2

language be proposed for the revisions to Chapter 56. However, while the Department agreed with the need for additional options, it advised us to draft legislation, as the Administrative Rules process could not provide the remedy we sought.

SB 2879 honors the intent of IDEA to provide appropriate services to students at no cost to the student or family, and to ensure that a student's rights are protected through student and parent involvement in all decisions relating to identification, evaluation, program and placement. The bill also includes safeguards to ensure that the student with a disability has the option of rescinding a Power of Attorney or changing a surrogate decision maker, if he or she chooses.

We would be happy to answer any questions, and we thank you for this opportunity to testify on an important and necessary improvement to Hawaii's special education process.

Sincerely,

Ivalee Sinclair, Chair



COMMUNITY CHILDREN'S COUNCIL OFFICE

1177 Alakea Street • B-100 • Honolulu • HI • 96813

TEL: (808) 586-5363 • TOLL FREE: 1-800-437-8641 • FAX: (808) 586-5366

LATE TESTIMONY

February 5, 2008

The Honorable Norman Sakamoto  
Chair, Senate Education Committee

RE: SB 2879: Establishes a power of attorney for special education; establishes the process to appoint a surrogate decision maker for an adult student that lacks capacity; and clarifies the authority of a guardian and adult student.

Senator Sakamoto and members of the committee:

The 17 Community Children's Councils in Hawaii strongly support SB 2879.

Our reasons for supporting this bill are:

1. Hawaii's current law does not allow any other option than the costly and onerous process of seeking guardianship through court action.
2. Parents have expressed the frustration and difficulties encountered because the law is so narrow.
3. There is much inconsistency in the schools as some do accept power of attorney while others do not.
4. Parents and professionals expresses frustration and concern about the limitations put upon them under current law.

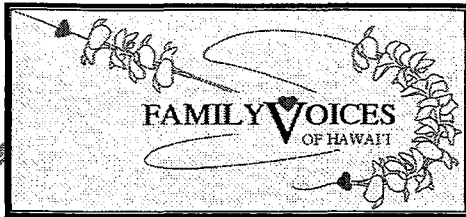
We respectfully request that SB 2879 be passed. If there are questions or additional information is needed, please contact the Community Children's Council Office at 586-5363. Thank you for your time and consideration of this bill.

Sincerely,

Charlotte Kamauoha, Parent Co-Chair

Tom Smith, Professional Co-Chair

Signatures on file



# HILOPA'A

Family to Family Health Information Center

Date: February 4, 2008

To: COMMITTEE ON EDUCATION

Senator Norman Sakamoto, Chair

Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Brian Taniguchi, Chair

Senator Clayton Hee, Vice Chair

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

Re: SB 2879 – **Strong Support** to RELATING TO EDUCATION: Establishes a power of attorney for special education; establishes the process to appoint a surrogate decision maker for an adult student that lacks capacity; and clarifies the authority of a guardian an adult student.

On behalf of Family Voices of Hawai'i, I submit this testimony in **support** of SB 2879.

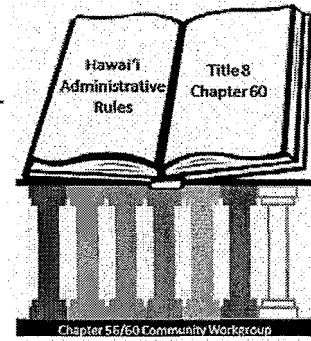
As an organization, Family Voices is national grass roots organization of family of friends of child with special health care needs. In Hawai'i, we operate the federally funded Hilopa'a Family to Family Health Information Center. The Center was launched at the end of October of last year. Since then, we have already received calls from families seeking assistance in dealing with the dilemma of being forced into guardianship for the sole purpose of participating in special education planning meetings. While the guidelines for special education may suggest families employ a power of attorney for their adult child, this guideline is inconsistently applied and lacks the full weight and mandate of a law.

For many, guardianship is a costly, time consuming, and permanent endeavor. For others, entertaining guardianship can prompt an ethical crisis. For these reasons, and many others, the issue of the "correctness" of the imposition of guardianship is being played out in court. Alaska requires individuals to exhaust all of the alternatives to guardianship before it will grant it. In Iowa, the court must consider the availability of third party assistance to meet a proposed ward's need for such necessities. Similarly, in the state of Pennsylvania, the courts have determined, "Persons cannot be deemed incapacitated if their impairments are counter-balanced by friends, family or other support."

It is the intent of the proponents of this bill to utilize our legislative system to insure the choices and options for our families are codified into state law. SB 2879 is in alignment with the cultural change and civil rights movement occurring across our country. There is no need for us to wait for a court decision to do the right thing. This bill provides a continuum of choices and options that will meet the needs of Hawai'i's adult students in special education and their families.

Thank you for time and consideration in supporting SB 2879.

# The Community Workgroup



Date: February 4, 2008

To: COMMITTEE ON EDUCATION  
Senator Norman Sakamoto, Chair  
Senator Jill N. Tokuda, Vice Chair  
COMMITTEE ON JUDICIARY AND LABOR  
Senator Brian Taniguchi, Chair  
Senator Clayton Hee, Vice Chair

Fr: Ivalee Sinclair, Community Workgroup Leader

Re: SB 2879 – **Strong Support** to RELATING TO EDUCATION: Establishes a power of attorney for special education; establishes the process to appoint a surrogate decision maker for an adult student that lacks capacity; and clarifies the authority of a guardian an adult student.

On behalf of the Chapter 56/60 Community Workgroup, I **support** SB 2879.

SB2879 provides a continuum of options for adult students with disabilities. There are approximately 500 students each year who meet the criteria.

The Chapter 56/60 Community Workgroup was convened last summer to provide input and feedback to the Department of Education (DOE) to align the Hawai'i Administrative Rules with the Reauthorization of IDEA 2004. With over 300 changes to the Hawai'i rules, there was only one area of concern which could not be remedied through the Administrative Rules process, but would require a new law. With encouragement from the DOE, the Community Workgroup drafted the proposed legislation, which is before you now as SB 2879.

When a student turns 18 in our state, it is presumed the student is capable of making decisions and providing informed consent. The schools will respect the decisions of the student, unless the student is found to be incapable of making decisions or providing consent. If the student does not have the ability to provide informed consent as it relates to their educational program, the federal law requires that each state "*shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this subchapter.*" Currently, our state guidelines are restrictive, and provides for the single remedy of guardianship, which is the antithesis of self-determination. As you will hear from other testimony; families are being forced into guardianship which can be extremely costly – just for the sake of participating in their adult student's educational program. More so, this has become an ethical dilemma for many families who philosophically do not believe in guardianship and would never seek guardianship as in every other scenario, the alternatives to guardianship are adequate.

SB2879 maintains the option for guardianship, while it expands choice to include a special education power of attorney and a process to appoint a surrogate decision maker. This proposed statute was modeled after our Hawai'i Uniform Health Care Decision Act (HUHCDA). The rationale being, the HUHCDA has the strongest protection for our most vulnerable population, therefore its structure would be quite appropriate for our students.

Thank you for time and consideration. The Community Workgroup is available for questions and further discussion.

**To:**

**Committee: Education/Judiciary and Labor**

**DATE: Wednesday, February 6, 2008**

**TIME: 9:00 a.m.**

**PLACE: Conference Room 016 – (Chamber level)**

**Bill No: SB 2879**

**From:**

**Alfred M. Arensdorf M.D.**

**33 Keoneloa Street**

**Mailing address:**

**PO Box 3072**

**Wailuku, HI 96793**

**Tel: 808-244-6601**

**FAX: 808-244-6601**

**Cell: 808-264-7402**

**Email: [ARENSDORA001@hawaii.rr.com](mailto:ARENSDORA001@hawaii.rr.com)**

### **SUPPORT**

**As a practicing child and adolescent psychiatrist, I often encounter parents of youth with developmental disabilities who are incapable of understanding the complexities of decisions made relative to their education and transition into adulthood. This legislation allows a number of mechanisms for assuring a parent's or guardian's assistance and understanding for the young adult involved.**

**Senate Bill No. 2879**

**Committee: Education, Judiciary and Labor**

**Hearing Date: Wednesday, February 6, 2008**

**Time: 9:00 a.m.**

**Conference Room: 016 - Chamber Level**

Dear Senators:

I have a 17 year old son with autism. My husband and I have been solely responsible for making all of the education decisions in his best interest. We have a strong partnership with the school. I was recently informed that in order to continue being his spokesperson for education, I will have to hire an attorney and attain guardianship with the cost between \$3,000.00-\$4,000.00 and that this was the only choice we had. We were in shock, to say the least! We as parents have been working very hard to help our son be the best he can be and get him to the point where maybe some day he can hold some type of job and for this we get slapped with a huge bill. We are now required to hire an attorney and pay a lot of money to continue helping our child.

We are in total agreement with Senate Bill No. 2879 as this would give us choices in the best interest of our children and with respect for family values. I urge all of you to seriously consider this bill.

Thank you,  
Susan Wood



Senate Bill No. 2879

Committee: Education, Judiciary and Labor

Hearing Date: Wednesday, February 6, 2008

Time: 9:00 a.m.

Conference Room: 016 - Chamber Level

Dear Senators:

As the parent of a young adult with a developmental disability, who received special education throughout his public school experience, I strongly support SB. No. 2879. Despite his primary diagnosis of autism, he was (and still is) capable of understanding and able to make many decisions on his own. More importantly, he was able to recognize that his parents have been his support system throughout his life and the educational arena was just another venue. To this end, it was apparent to me that in order to preserve his rights and privileges, we secured a Power of Attorney. We found it to be affordable and did not strip him of his rights as a unique and valuable member of the community.

I was extremely shocked to hear from other parents that the Department of Education was not honoring POAs as a form of representation. For families of children with disabilities, it is crucial that options are made available so each family can represent their child based on their family's particular situation. Therefore, please support SB. No. 2879 which allows families the right to choose.

Sincerely,

Jan M. Tateishi

7182 Kamilo Street  
Honolulu, HI 96825  
Phone: 3960284

Susan Rocco  
1716 Piikea Street  
Honolulu, HI 96818  
(808) 422-5759

February 6, 2008

Senator Normal Sakamoto, Chair, Committee on Education Senator Jill Tokuda, Vice Chair, Committee on Education Senator Brian Taniguchi, Chair, Committee on Judiciary & Labor Senator Clayton Hee, Vice Chair, Committee on Judiciary & Labor

Support of SB 2879 – Relating to Education

As the parent of a young adult with developmental disabilities, I am in strong support of the above bill that expands the options for protecting a student's rights when that student reaches the age of 18 and is unable to make informed decisions regarding his/her educational program due to a disability.

When Jason approached his 18th birthday, his special education teacher informed me of the option of securing guardianship through a petition to the Court, in order for me to speak legally on his behalf once he became an adult. While I seriously considered this option, given that Jason has a significant intellectual disability and is non-verbal, I chose not to do so based on two compelling and competing choices.

First was the discovery that surrogate decision making is built into Hawaii's Uniform Health Care Act, and therefore, I could continue to speak up for him whenever medical decisions were needed. Second was the education and encouragement I received from the Developmental Disabilities Division of the Department of Health regarding less restrictive alternatives to guardianship. Based on the principles of self-determination which support the preferences of the individual with a disability, families are assisted to utilize mechanisms such as a Power of Attorney or Representative Payee to avoid stripping their son or daughter with a disability of the ability to make legal decisions while still protecting them from harm.

I have talked with other parents whose newly adult children lack the capacity to make informed decisions about their educational programming. These parents are often torn between honoring these self-determination principles and the Department of Education's relatively recent insistence that they must get Court ordered guardianship in order to continue to advocate for their young adult in the IEP process. There is a financial and paperwork burden to be born, as well, when a parent must first pay an attorney to obtain guardianship and then must routinely report to the Court regarding actions taken on behalf of their adult child.

Clearly these burdens were not the intent of the Individuals with Disabilities Education Act which promises students a FREE and appropriate public education and provides student and family rights to challenge the decisions of the Department. Indeed, in the comments to the most recent amendments to IDEA, the U.S.DOE declares that if a State has a mechanism to determine a student's inability to make informed decisions, even though the student has not been determined incompetent under State law, it MUST establish procedures for appointing the parent or another appropriate individual to represent the educational interests of the student throughout his or her eligibility under IDEA.

SB 2879 provides that mechanism, and we owe it to students and their families to see that it becomes law.

Sincerely,

Susan Rocco

**LATE**

February 5, 2008

The Honorable Senator Brian T. Taniguchi  
Chair, Judiciary and Labor Committee  
Hawaii State Capitol, Room 219  
415 South Beretania Street  
Honolulu, HI 96813

In regards to: SB 2879

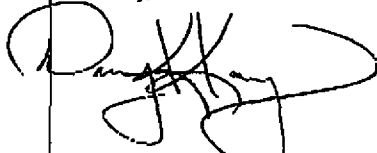
Dear Senator Taniguchi and members of the committee,

The Parent Group of the Ko'olauloa Community Children's Council supports SB 2879 in establishing a Power of Attorney for special education; establishing the process to appoint a surrogate decision-maker for an adult student who lacks capacity; and clarifies the authority of a guardian of an adult student.

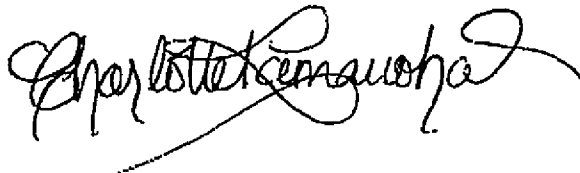
The current process and only avenue of guardianship is not only expensive and excruciating, it takes away from our children's rights to self-determination and serves only to dehumanize and deplete their self-esteem. We are, therefore, in full support of mechanisms and options that do not require us to deem our children incompetent or incapacitated in order for us to help them make appropriate educational decisions.

As parents, we would never want to be put in such a position. We respectfully request your support in passing SB 2879.

Sincerely,



Dacey K. Kagawa  
Charlotte H. Kamauoha  
Donna Brown  
Parent Co-Chairs



KO'OLAULOA COMMUNITY CHILDREN'S COUNCIL  
PARENT GROUP  
54-111 IMUA PLACE  
HAUULA, HI 96717

# UNIVERSITY OF HAWAII AT MĀNOA

Center on Disability Studies

MCH Leadership Education in Neurodevelopmental Disabilities and Related Disorders Program

# LATE

DATE: March 29, 2007

TO: COMMITTEE ON EDUCATION  
Senator Norman Sakamoto, Chair  
Senator Jill N. Tokuda, Vice Chair  
COMMITTEE ON JUDICIARY AND LABOR  
Senator Brian Taniguchi, Chair  
Senator Clayton Hee, Vice Chair

FR: Louise Kido Iwaishi, MD, Director Hawai'i MCH LEND Program

RE: SB 2879 –RELATING TO EDUCATION: Establishes a power of attorney for special education; establishes the process to appoint a surrogate decision maker for an adult student that lacks capacity; and clarifies the authority of a guardian an adult student. – **Strong Support**

---

I am testifying in strong support of SB02879 on behalf of our Hawai'i Maternal Child Health Leadership Education in Neurodevelopmental Disabilities and Related Disorders Program, also known as the MCH LEND Program. The MCH LEND is a leadership education program, similar to a fellowship, for young health care professionals with a concentration on special health care needs. Part of our curriculum mandates that trainees be provided opportunities to conduct applied research and become immersed in public policy.

In the last two months, our law trainees have worked with the Chapter 60 Community Work Group reviewing the statutes and rules of other states as it relates to the transfer of rights. What has become apparent is that there are other states that are taking a more progressive stance in offering alternatives to guardianship for adult students who are unable to provide informed consent.

In our health care service system, a mechanism already exists, in this particular scenario for 1) the determination that an individual is unable to give informed consent and 2) the process to appoint a surrogate decision maker. This mechanism has served our state well in the past for the thousands of individuals who have had to invoke this mechanism in making health care decisions. I am very confident that this model will serve adult students with disabilities just as well.

Thank you for this opportunity to serve the Community Work Group and to provide testimony in support of SB 2879.