

Date of Hearing: February 2, 2009

Committee: House Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. 87, Relating to Education

Purpose: Provides the Department of Education with oversight and monitoring powers over a child receiving special education services at a private school but at public expense.

Department's Position: The Department of Education (Department) supports H.B. 87. Pursuant to Individuals with Disabilities Education Improvement Act of 2004 (IDEA), the Department is required to provide a free appropriate public education (FAPE) to all students with disabilities, including students placed in a private school/facility at public expense. To fulfill this federal mandate, the Department must monitor every student's progress to ensure the delivery of FAPE. In the past, the Department has been denied timely access to monitor these students and their educational records because they are not educated on a public school campus. This bill will allow the Department to fulfill their obligation under IDEA to provide FAPE to all students with disabilities, including those in a private school/facility at public expense.

The Department suggests the following language in place of line 14 through 18 on page one of the bill: If the private school/facility does

not allow the Department of Education regular and timely access to monitor the delivery of special education and related services, then this private school/facility is deemed an inappropriate placement for the student with a disability. The private school/facility can no longer be safely considered the last agreed upon placement, sometimes referred to as “stay-put” in a due process hearing. The individualized education program team shall reconvene to determine a new placement and cannot consider the inappropriate private school/facility.

The Department suggests replacing any mention of “private school” to read “private school/facility.” This amendment will allow the bill to relate to those special education placements that do not consider themselves schools.

The Department supports H.B. 87 with the revisions mentioned above.