

JAN 26 2011

A BILL FOR AN ACT

RELATING TO SPECIAL EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§302A- Educational interpreting services; students with
5 a disability. (a) Persons who provide interpreting services
6 for children who are deaf or hard of hearing shall comply with
7 all state laws and rules governing sign language interpreters
8 and shall have:

9 (1) Certification pursuant to the educational interpreter
10 performance assessment;

11 (2) National interpreter certification from the registry
12 of interpreters for the deaf; or

13 (3) Credentials through the Hawaii quality assurance
14 system;

15 provided that the certification pursuant to the educational
16 interpreter performance assessment shall be the preferred
17 qualification.



1 (b) Persons who provide sign language services for a child
2 who is not deaf or hard of hearing but for whom sign language
3 services are specified in an individualized education program to
4 address expressive or receptive language needs shall meet the
5 requirements determined to be appropriate by the department.

6 §302A- Special education preschool programs; students
7 with a disability. The department shall provide a statewide,
8 flexible system of educational placement and programs to address
9 the unique needs of students with a disability beginning at the
10 age of three years until the student is ready for kindergarten
11 in accordance with parental preferences."

12 SECTION 2. Section 302A-101, Hawaii Revised Statutes, is
13 amended to read as follows:

14 1. By adding two new definitions to read:

15 "Related services" means transportation and the
16 developmental, corrective, and other supportive services that
17 are required to assist a student with a disability to benefit
18 from special education including speech-language pathology and
19 audiology services; educational interpreting services;
20 psychological services; physical, occupational, music, and art
21 therapy; recreation, including therapeutic recreation; early
22 identification and assessment of disabilities; counseling



1 services, including rehabilitative counseling; orientation and
2 mobility services; medical services for diagnostic or evaluation
3 purposes; school health and school nurse services; social work
4 services; and parent counseling and training.

5 "Student with a disability" means a student residing in the
6 State who has been evaluated in accordance with Hawaii
7 administrative rules 8-60-36 through 8-60-43 and has been
8 identified as deaf or hard of hearing or as having an
9 intellectual disability, a developmental delay, a speech or
10 language disability, a visual disability including blindness, an
11 emotional disability, an orthopedic disability, autism spectrum
12 disorder, traumatic brain injury, a specific learning
13 disability, deaf-blindness, multiple disabilities, or other
14 health disability and who, therefore, needs special education;
15 provided that a student affected by an identified condition who
16 does not require special education, but only requires related
17 services other than speech-language pathology services shall not
18 be deemed a student with a disability."

19 2. By amending the definitions of "charter schools" and
20 "special facilities" to read:

21 ""Charter schools" means public schools holding charters to
22 operate as charter schools under chapter 302B, including start-



1 up and conversion charter schools, that have the flexibility and
2 independent authority to implement alternative frameworks with
3 regard to curriculum, facilities management, instructional
4 approach, virtual education, special education, length of the
5 school day, week, or year, and personnel management.

6 "Special facilities" includes buildings, equipment, and
7 materials; transportation; boarding homes; and personnel
8 qualified to work with [~~exceptional children.~~] students with a
9 disability."

10 3. By deleting the definitions of "exceptional children"
11 and "special services".

12 [~~"Exceptional children" includes:~~

13 ~~(1) Persons under twenty years of age who deviate from the~~
14 ~~so-called normal person in physical, mental, social,~~
15 ~~or emotional characteristics or abilities to such an~~
16 ~~extent that specialized training, techniques, and~~
17 ~~equipment are required to enable these persons to~~
18 ~~attain the maximum of their abilities or capacities;~~
19 ~~provided that "exceptional children" shall not include~~
20 ~~"gifted and talented children";~~



1 ~~(2) Persons under twenty years of age who by reason of~~
2 ~~physical defects cannot attend the regular public~~
3 ~~school classes with normal children; and~~

4 ~~(3) Persons under twenty years of age who are certified by~~
5 ~~a licensed physician eligible for membership in the~~
6 ~~state medical society as being emotionally maladjusted~~
7 ~~or intellectually incapable of profiting from ordinary~~
8 ~~instructional methods.~~

9 ~~"Special services" means physiotherapy, or any form of~~
10 ~~muscle training, speech training, occupational therapy,~~
11 ~~vocational training, psychological evaluation, or any of them."]~~

12 SECTION 3. Section 302A-436, Hawaii Revised Statutes, is
13 amended to read as follows:

14 " ~~[+] §302A-436 []~~ Departmental duty toward ~~[exceptional~~
15 ~~children.]~~ students with a disability. (a) It is hereby
16 declared to be of vital concern to the State that all
17 ~~[exceptional children]~~ students with a disability residing in
18 the State be provided with instruction, special facilities, and
19 ~~[special]~~ related services for education, therapy, and training
20 to enable them to live normal competitive lives. In order to
21 effectively accomplish this purpose, the department shall
22 establish and administer instruction, special facilities, and



1 ~~[special]~~ related services for the education, therapy, and
2 training of ~~[exceptional children,]~~ students with a disability,
3 and provide in connection therewith corrective therapy, together
4 with academic, occupational, and related training. The
5 department shall cooperate with other agencies of the State
6 charged with the administration of laws providing any type of
7 service or aid to the ~~[exceptional child,]~~ student with a
8 disability and with the United States government through any
9 appropriate agency or instrumentality in developing, extending,
10 and improving the foregoing instruction, special facilities, and
11 ~~[special]~~ related services.

12 (b) This program shall include boarding facilities, when
13 necessary, special classes in schools or homes, and such other
14 facilities as shall be required to render appropriate services
15 to the ~~[exceptional child.]~~ student with a disability. Existing
16 facilities, buildings, and equipment belonging to, or operated
17 by, the State shall be made available for these purposes when
18 use thereof does not conflict with the primary use of the
19 facilities."

20 SECTION 4. Section 302A-438, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "**§302A-438 Facilities, service, when required.** Where one
2 or more [~~exceptional children~~] students with a disability are
3 found in any one complex area superintendent's district, the
4 superintendent of education shall provide instruction, special
5 facilities, and [~~special~~] related services according to the
6 specifications of sections 302A-436 to 302A-443 in a manner most
7 expedient and economical."

8 SECTION 5. Section 302A-439, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**[+]§302A-439[+]** **Eligibility standards.** The eligibility
11 of [~~exceptional children~~] students with a disability for
12 instruction, special facilities, and [~~special~~] related services
13 shall be determined in accordance with those standards
14 established by the department[-]; provided that in the
15 transition of eligible students with a disability from the
16 department of health's early intervention services to special
17 education preschool programs, the department shall enter into an
18 agreement with the department of health no less frequently than
19 annually to extend the student's eligibility for department of
20 health services to at least the first day of the next school
21 year, at the option of the parent and consistent with federal
22 laws and regulations."



1 SECTION 6. Section 302A-440, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§302A-440 Coverage for workers' compensation of [an
4 ~~exceptional child.~~] a student with a disability. Whenever [an
5 ~~exceptional child~~] a student with a disability as defined in
6 section 302A-101 undertakes to perform work for a private
7 employer as part of a school-approved work-based learning
8 program, whether paid or unpaid, the State shall be deemed to be
9 the responsible employer for the purposes of workers'
10 compensation coverage."

11 SECTION 7. Section 302A-442, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§302A-442 Occupational therapy services, physical therapy
14 services, speech-language pathology services, audiology
15 services, school health services, mental health services,
16 psychological services, and medical services for diagnostic or
17 evaluative purposes. (a) The department of health, within the
18 funds available, shall be responsible for the related services
19 of school health, mental health, psychological, and medical
20 services for evaluation or diagnostic purposes, and, within the
21 funds available, shall provide for those [~~exceptional children~~]



1 students with a disability who need these services and who
2 attend public school in the State.

3 (b) The department of education, within the funds
4 available, shall be responsible for the related services of
5 occupational therapy and physical therapy for evaluation or
6 diagnostic purposes, and, within the funds available, shall
7 provide for those [~~exceptional children~~] students with a
8 disability who need these services and who attend public school
9 in the State.

10 (c) The department of health shall work in cooperation
11 with the department of education to implement this section. The
12 procedures to implement this section shall be in accordance with
13 the rules of the department of health and the department of
14 education."

15 SECTION 8. Section 302A-442.5, Hawaii Revised Statutes, is
16 amended by amending its title to read as follows:

17 "§302A-442.5 Instructional materials; [~~exceptional~~
18 ~~children.~~] students with a disability."

19 SECTION 9. Section 302B-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "charter school" to read
21 as follows:



1 "Charter school" [~~refers to these~~] means a public
2 [~~schools~~] school holding [~~charters~~] a charter to operate as a
3 charter [~~schools~~] school under this chapter, including start-up
4 and conversion charter schools, [~~and that have~~] with the
5 flexibility and independent authority to implement alternative
6 frameworks with regard to curriculum, facilities management,
7 instructional approach, virtual education, special education,
8 length of the school day, week, or year, and personnel
9 management."

10 SECTION 10. Section 302B-15, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 (b) The department shall be responsible for the provision
13 of a free appropriate public education. Any charter school that
14 enrolls special education students or identifies one of its
15 students as eligible for special education shall be responsible
16 for providing the educational and related services required by a
17 student's individualized education program. The programs and
18 services for the student shall be determined collaboratively by
19 the student's individualized education program team, which shall
20 include the charter school, and the student's parents or legal
21 guardians.



1 If the charter school is unable to provide all of the
2 required services, then special education and related services
3 to the student shall be provided by the department according to
4 services determined by the student's individualized educational
5 program team. The department shall collaborate with the office
6 to develop guidelines related to the provision of special
7 education services and resources to each charter school. The
8 department shall review all of the current individualized
9 education programs of special education students enrolled in a
10 charter school and may offer staff, funding, or both, to the
11 charter school based upon a per-pupil weighted formula
12 implemented by the department and used to allocate resources for
13 special education students in the public schools."

14 SECTION 11. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 12. This Act shall take effect on July 1, 2011.

17

INTRODUCED BY:

Michelle Fedani



Report Title:

Department of Education; Charter Schools; Special Education

Description:

Changes terminology from "exceptional child" to "student with a disability" and clarifies criteria for designation; clarifies definition of services auxiliary to education required to be provided to students with a disability; clarifies eligibility standards for preschool students with a disability; clarifies charter school duties toward children with a disability; establishes certification criteria for persons who provide interpreting services for children who are deaf or hard of hearing and certain students with a disability.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

