

Date of Hearing: March 16, 2011

Committee: House Education

Department: Education

Person Testifying: Lea E. Albert, Complex Area Superintendent, Castle-Kahuku Complex

Title: S.B. No. 1503, S.D. 2 Relating to Education

Purpose: To provide definitions of various private special education schools and programs and the requirements for those schools and programs to accept students with disabilities at the department's expense.

Department's Position: I fully support this Bill as it is amended by S.D. 2 because it is important to provide clear definitions in our laws. More importantly, this Bill as it has been amended in S.D. 2 provides requirements for private special education schools and placements to accept students with disabilities at the Department's expense. All students should be provided with an equal opportunity to receive a quality education. One means to judge whether education is provided in a rigorous manner and aligned with academic standards is through accreditation. The accreditation organizations mentioned in this bill as amended are the "gold standard" in accreditation. I strongly urge this committee to pass this bill as amended and to not deviate away from the accreditation requirement as it is written. Professionals who are responsible for the education of our children should all want the very best for them. Accreditation by the Western Association of Schools and

Colleges (WASC), the Hawaii Association of Independent Schools (HAIS), any HAIS Hawaii affiliate, the National Association for the Education of Young Children (NAEYC) or the National Early Childhood Program for Accreditation (NECPA) ensures the Department that the educational services that the Department is paying for are rigorous and based upon academic standards. Our students deserve the best and all credible private placements would agree that accreditation is an academic and educational necessity for our students with disabilities. Therefore, I strongly urge the passage of SB 1503, SD 2.



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
March 16, 2011

The Honorable Roy M. Takumi, Chair
The Honorable Della Au Belatti, Vice Chair
House Committee on Education
Twenty-Sixth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representatives Takumi and Belatti and Members of the Committee:

SUBJECT: SB 1503 SD 2 – RELATING TO SPECIAL EDUCATION

The State Council on Developmental Disabilities (DD) **SUPPORTS SB 1503 SD2**. The purpose of the bill is to provide definitions of various private special education schools and programs and requirements for those schools and programs to accept students with disabilities at the Department of Education's (DOE) expense.

SB 1503 SD2 provides definitions for "accredited private special education school or program," "certified or licensed private residential facility," and "nonpublic special education school or program." It requires these types of private special education schools and programs that provide services to students with disabilities who receive State funding to comply with Federal and State laws, rules, and regulations. It requires a nonpublic special education school or program not accredited to apply for accreditation within 90 days from the date of accepting a student with disabilities placed there per a hearing officer's decision, court order, settlement agreement, or decision by DOE.

We understand that the bill reflects the work of the Private School Placement Task Force that included representatives from DOE and the community. The passage of the bill would provide DOE and various private schools who serve students with disabilities clearer guidelines and conditions that comply with Federal and State laws, rules, and regulations when providing special education and related services for students with disabilities.

Thank you for the opportunity to submit testimony supporting SB 1503 SD2.

Sincerely,


Liz Ann Salvador
Chair


Waynette K.Y. Cabral, MSW
Executive Administrator



HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102
Honolulu, Hawaii 96813

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

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THE HOUSE OF REPRESENTATIVES THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2011

Committee on Education Testimony in Opposition to S.B. 1503 Relating to Education

**Wednesday, March 16, 2011, 2:00 P.M.
Conference Room 309**

Chair Takumi and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in opposition to this bill.

The purpose of the bill is to require that certain private schools that provide special education to students with disabilities receive accreditation from various accrediting agencies .

Limiting private placements to schools approved by the DOE or to schools approved by private accreditation agencies sanctioned by the DOE would conflict with federal law and, thus, be preempted.

School districts are required to provide a FAPE – a free and appropriate education to children who qualify for special education services under the IDEA. If they fail to do so, placement at a private facility is an option which the law allows. Inasmuch as many due process hearings involve unilateral placements, this bill would violate federal law under the IDEA, which says that hearings officers and the Courts may decide placement and

order the school district to reimburse the cost if the private school is found to be appropriate. The States have no authority to impose more restrictive requirements, such as the accreditation proposed in this measure. Such a bill would be in conflict with and preempted by the IDEA.

Thank you for the opportunity to testify in opposition to this matter.



Wednesday, March 16, 2011
2:00 p.m.
Conference Room 309

TESTIMONY TO
THE HOUSE COMMITTEE ON EDUCATION

RE: SB 1503 SD 2 – Relating to Special Education

Dear Chair Takumi, Vice Chair Belatti, and Members of the Committee,

My name is Robert Witt and I am executive director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 students statewide. My testimony today is on behalf of our member schools, along with the member schools of Hawaii Catholic Schools, with permission from Superintendent Carmen Himenes.

The Association **supports** SB 1503 SD2 – Relating to Special Education, which requires certain private special education schools and programs that provide services to students with disabilities, and thereby receive state funding to do so, to comply with all applicable federal and state laws, along with all applicable rules and regulations.

HAIS also hereby agrees with the Department of Education that to assure high quality, transparent, and reliable services to these students in schools, which are dedicated to their own continuous self-reflection and improvement, that **formal accreditation** via the Western Association of Schools and Colleges, the Hawaii Association of Independent Schools, or any WASC affiliate in Hawaii should and must be the State standard.

HAIS also stipulates that Hawaii Catholic Schools is a WASC affiliate and that the accreditation program it provides meets this new standard.

HAIS wishes to engage with DOE in any and all ongoing efforts, following adoption of this measure, to create administrative rules in alignment with the spirit of this proposed measure. In particular, HAIS will wish to define “access” for the purposes of “monitoring” in ways that are true to the independence of its member schools, while simultaneously allowing DOE to meet its obligations to federal authorities.

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



Hearing date:
Wednesday,
March 16,
2:00 p.m.
House Committee
on Education,
Room 309

To: Representative Roy Takumi, Chair
Representative Della Au Belatti, Vice Chair

From: Elisabeth Chun, Executive Director
Good Beginnings Alliance

Date: Wednesday, March 16, 2011, 2:00 p.m.
Conference Room 309

Subject: **SB 1503 SD2:** Requires certain private special education schools and programs that provide services to students with disabilities who receive state funding, to comply with federal and state laws, rules, and regulations. Requires accreditation within a certain time for certain private schools or programs that accept students with disabilities who receive state funding. Effective 7/1/2050. (SD2)

The Good Beginnings Alliance is a policy and advocacy organization focused on Hawaii's youngest children and their families. We strive to ensure a nurturing, safe and healthy development for all children from pre-birth to age eight. We believe all children deserve safe and supportive environments that meet their needs as they grow and develop. Good Beginnings is also a member of One Voice for Hawaii's Children (www.onevoiceforchildren.net), an alliance of organizations and individuals committed to the development of an effective and equitably funded early childhood system that gives all young children the opportunity to arrive at kindergarten safe, healthy and ready to succeed. The following information is provided to help you in your decision-making process.

Numerous studies throughout the nation have shown that children who participate in high quality early learning programs start kindergarten safe, healthy, and ready to succeed. Moreover, programs accredited by the Western Association of Schools and Colleges, the National Association for the Education of Young Children, or the National Early Childhood Program for Accreditation must meet stringent quality standards and provide excellent learning environments for all children, to include those with disabilities.

Mahalo for your consideration. For more information contact: Good Beginnings Alliance; phone: 531-5502; lchun@goodbeginnings.org

AUTISM SOCIETY OF HAWAII
P.O. BOX 2995
HONOLULU, HAWAII 96802

Wednesday, March 16, 2011

Conference Room 309 at 2 p.m.

The House Committee on Education

Re: SB 1503 SD2 RELATING TO SPECIAL EDUCATION
Testimony in Opposition

My name is Naomi Grossman, and I am the vice president of the Autism Society of Hawai'i. The Autism Society of Hawai'i is an affiliate chapter of the Autism Society of America. Its membership are composed of families who deal with living with the effects of autism and the professionals and paraprofessionals who serve them.

The Autism Society of Hawai'i provides leadership in the field of autism dedicated to supporting families who advocate on behalf of their children and are committed to reducing the consequences of autism through education, research, and advocacy.

The Autism Society of Hawai'i appreciates the opportunity to testify in opposition of SB 1503 SD 2 relating to special education, regarding requiring certain private education schools and programs that provide services to students with disabilities who receive state funding, to comply with federal and state laws, rules, and regulations. Requires accreditation within a certain time for certain private schools or programs that accept students with disabilities who receive state funding. Effective 7/1/2050.

First of all, I agree that it is fundamental to know that what you are buying is evidenced by the criteria, and, if, that criteria has been met, or not. However, in SB 1503 SD2 you are measuring the status and membership of a private school, and not the fulfillment of F.A.P.E. as required under the I.D.E.A.

The flaws inherent in this bill will cause more costs to the State of Hawai'i if it is enacted into law. An IEP team or a hearing officer's decision determines the particular program and related service location and whether the legal requirements and measurements under the Individuals with Disabilities Education Act (I.D.E.A.) has or has not been met. SB 1503 SD2 changes the current federal I.D.E.A. law and does not ensure consistency. For this reason, I cannot support SB 1503 SD2.

In closing, I want to thank the House Committee on Education for thinking about Hawai'i's keikis when you think of restoring Congress' original intent of the Individual's with Disabilities Education Act (I.D.E.A.) that parents who prevail in I.D.E.A. impartial administrative due process deserve to access educational success. Sens. Kennedy, Simon and Kerry argued the importance of children accessing education with the support of procedural safeguards. Senator Edward Kennedy stated,

“The basic purpose of this legislation and its primary intent states that handicapped children and their parents or legal guardians should be able to participate in the due process system and have access to the full range of remedies to protect their educational rights on an equal par with the school districts and I strongly support this purpose,” argued Senator Edward Kennedy on “protecting all handicapped children” which later became I.D.E.A. (Senate Congressional Record - July 30, 1985 pp. 21391 – 2).

In the interest of the public good, the I.D.E.A. procedural safeguards already refers, determines and identifies what is measurably appropriate in order to meet the appropriate mix/match/fit of service programming and related services for the student dealing with the effects of one of the 16 eligible disability categories of special education. In order to consistently fulfill the legal requirements under I.D.E.A., and, in order for a particular student to access F.A.P.E., special education shall be consistently defined as what the student's unique and individual needs are, and how they are met programmatically, togetherwith the required related services, and not the place where services are available.

For the reasons stated, the Autism Society of Hawai'i opposes SB 1503 SD2. Thank you for the opportunity to testimony. We respectfully ask the House Committee on Education to not pass the measure.

Sincerely,

Naomi Grossman
Autism Society of Hawai'i
naomigr@gmail.com
808 228-0122

March 14, 2011

TESTIMONY TO THE SENATE COMMITTEE OF EDUCATION

RE: SB1503 SD2- RELATING TO SPECIAL EDUCATION

Dear Senators Ige and Kidani and Members of the Committee,

My name is Mae Anne Datuin and I work at Behavioral Counseling & Research Center. I work with children who have Autism and other behavioral challenges. This is a testimony in support for SB1503 SD2.

The purpose and objective of this policy is to ensure the quality of services provided for students with disabilities by:

- (1) Providing definitions of private residential facilities, special education schools or programs, and accreditation;
- (2) Requiring these schools and programs to comply with federal and state laws, rules, and regulations; and
- (3) Requiring certain of these private schools or programs that receive state funding to obtain accreditation within ninety days of accepting a student with disability.

I agree that defining the various facilities that will be involved with providing education, treatment, programming, or related services to students with disabilities are important in providing for clearer guidelines. Having worked with the autistic population and children with behavioral problems, I have seen firsthand the importance of having reliable services. The significance of having the proper credentials to meet the needs of each student's distinctive qualities is essential. Proper monitoring to make sure these facilities and the members involved follow the policies set forth by the state and federal laws will be beneficial to assure that those receiving services are in fact receiving the best out of their resources.

Thank you for considering my testimony.