



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 8, 2011

**MEMORANDUM**

TO: The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services

FROM: Patricia McManaman, Interim Director

SUBJECT: **S.B. 973 - RELATING TO INFANT AND TODDLER CHILD CARE CENTERS**

Hearing: Tuesday, February 8, 2011; 2:00 p.m.  
Conference Room 016, State Capitol

**PURPOSE:** The purpose of S.B. 973 is to require the Department of Human Services (DHS) to adopt rules to implement a standardized set of procedures to accommodate complaints and grievances against infant and toddler child care centers and to publicize those procedures on the DHS website.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) respectfully **opposes** this bill. The Department already has existing processes in place for complaints filed against a licensed child care provider, which includes licensed infant and toddler centers, preschool, child care programs for school-aged children, group child care homes, and family child care homes.

The Hawaii Administrative Rules (HAR) §17-895-6, requires licensed child care providers to have written operation policies in place. These policies are required to be available to parents or guardians who enroll their children with the licensed child care provider. HAR §17-895-6(a)(17) states that the operation policies should include a

statement regarding the facility's grievance policy. The written grievance policy must inform parents of the facility's procedure on addressing concerns and complaints that are brought to the facility staff's attention.

By necessity, every licensed child care provider's grievance or complaint policy is driven by the size of the provider, its staffing and management structure. There is no "one size fits all" approach that will readily allow for the standardization the proponents of this bill seek.

This bill also seeks to repeal HAR §17-895-6(a)(17) upon adoption of this bill. It would be more prudent to keep the rule section intact as it requires that the licensed infant and toddler center include information about filing complaints and grievances in their operational policies which is available to every parent.

DHS conducts complaint investigations in accordance with the Hawaii Revised Statutes §346-153. The DHS receives complaints about child care providers from the public (i.e. parents, staff in child care facilities, neighbors of child care providers, employees of the facility, other agency personnel, etc.) and conducts an investigation if there is an alleged law or administrative rule violation. The complaint report is made a part of the licensed facility's record and is considered public information. When looking for a child care provider, parents are encouraged by the Child Care Resource & Referral Service, operated through a DHS contract with PATCH (People Attentive To Children), to contact DHS to inquire about whether the child care provider is licensed, the status of the provider's license, and whether there are any complaint reports on file.

Currently, there is information available on the DHS website that states that the DHS Child Care Licensing Units conduct complaint investigations on all child care providers when there is an allegation of a law or administrative rule violation, and it also includes information about the complaint and investigation process.

Thank you for the opportunity to provide comments on this bill.

Testimony in Favor of Bill # SB973

Thank you allowing me to testify in favor of this bill.

I am a mother of two children, both of which had gone to the same preschool agency at different locations. My older child had no problems during his preschool years. My younger child attended the same preschool agency but at another location. At the start of the preschool for my younger son, he seemed happy.

However, as time went by his personal items such as clothing, slippers, and a security blanket was missing. I did alert the staff. Some items were found, others was lost.

Other observations made were that an instructor was falling asleep while on duty, the school confirmed that and apologized. That employee was transferred to another site. Cleaners were not following infection control measures. This was reported, those cleaners were terminated.

Instructors were also observed not providing oversight to the children. Instructors were observed being preoccupied with other issues such as reading their college textbook, on cell phones, coming to work late, on a laptop computer, ordering, driving off to get breakfast and then eating breakfast.

I did report these additional observations to the director, and had an agreement that she would provide early morning oversight to the instructors. Weeks went by and I did not see the director in the early morning to provide any supervisory oversight.

Then one day, my son came home with a rash like abrasion on his left posterior and lateral armpit area. When I questioned my son, he said he got this from school. His statements were somewhat confusing coming from a three year old, but said it was from school. My son was basically okay and I know that injuries happen at school however I wanted an injury report from the school. I called and left a message with the school director and asked that a report be made. I was not able to get someone to write a report until three days later.

There was an issue in which we felt that my son was being discriminated against since he had a security blanket. An instructor had stated that my son at his age (age 4) should not have a security blanket. I brought this issue up and met with the regional director, site director and two instructors. They did not agree on the discrimination issue, however agreed to pursue site educational trainings on developmental education to the staff. The curriculum was to be shared with us. That did not happen.

One day, my son came home from preschool and threw down his blanket on the ground and said that the instructor told him not to bring his blanket to school (this was observed by myself and my husband). Up to that point, I was relatively tolerant of the observations and issues above, but when this happened, I proceeded to file a formal complaint.

I then went back to the preschool and asked the site director for their policy and procedure for me to file a formal complaint, she told me to call the owner to make a complaint. I then called in the complaint and received no calls until four days later. I notified him of the complaint. I did tell him that I met with the site director, the

regional director, and two instructors and for him to get that report. Evidently no report was made. One month had passed since we filed a formal complaint. We waited for a response from the owner regarding the complaint. Since it was a month later, I called him. Evidently, he forgot about the complaint.

Now, during the time we waited for a response, we received retaliation from the instructors in forms of inappropriate incident reports (two reports in a two week period). The owner validated these reports submitted on my son as "inappropriate". Also a letter from the instructor was written to myself, which was very, very, very inappropriate. I immediately called the owner and faxed over the letter. The owner immediately reprimanded the instructor.

We then immediately had a meeting. There was an agreement that a response with agreed upon resolution would be given to us within thirty days. The response wasn't received within thirty days. When I called the owner, he said that the response was done two days after the meeting. Approximately 50 days later, I did receive the response.

I was upset about the formal complaint process. We had to go through meetings with no notes taken, actions stated, but not followed, retaliation, and most of all untimely resolution. After going through this process, I felt these agencies are not held accountable on the seriousness of public complaints.

I don't feel that a parent or any public entity should have gone through what my family went through. When I asked the agency initially about their complaint policy and procedure, the preschool did not let me know either verbally or in writing that I could file a formal complaint with DHS. Neither did they tell me at that time, DHS was the licensing entity. Eventually, I did find out that DHS was the licensing entity. I proceeded with a call to DHS.

DHS said that the administrative rule in 17-895-6(17), Statement of operation policies, only states that an agency must have a "statement of grievance procedures". There is no law currently that agencies are mandated to have standard procedures in place on intake, timeliness of resolution, or to keep a report on public complaints. I thought this was very inappropriate and that's why this agency was so lax. DHS also said that they could do an onsite review, but if no deficiencies are seen, the agency will not be cited.

I proceeded to obtain assistance from Representative Takai to introduce legislation that there be standardize State directive to mandate agencies to have a standard complaint procedure to include intake, timeliness for resolution and to publically state who the public can file a complaint to, for example, DHS and/or ombudsman.

Childhood care agencies need to know that any complaint or grievance is a priority and not something to just forget about. The public needs to have an assurance that the agencies are held to written intake of complaints with timely attempts at resolution with no agency retaliation.

In the last session, DHS had indicated that this bill would help them in enforcing agencies in complying with regulations on a standardized complaint and grievance procedure.

Children are a vulnerable population of individuals who must have additional support and directives in the complaints and grievances processes to not only protect the children, but to foster better accountability and service quality from our agencies.

Thank you for allowing me to provide this testimony. Please approve this bill for it contains the "missing link" in providing necessary State licensing enforcement directives that protects our children.

Sincerely,

Signed KI

Kathleen Ishihara, Mom