

# SB2540

WAM Decision-Making: February 23, 2012

Attention:

Senator David Ige, Chairperson  
Senator Michelle Kidani, Vice Chairperson  
Members of the Senate Committee on Ways & Means

From: Linda Elento, Kaneohe resident

My testimony requests the Senate Committee on Ways & Means to consider the following amendments to SB2540 SD1 in respect to improving services and cost-efficiency for the education of children with disabilities in all public schools, including charter schools.

The following comments are in line with the purpose of this Act and do not replicate specifically federal or other state laws or policies set by Hawaii Board of Education nor rules or practices of the Department of Education.

Ref: SECTION 2. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

**By adding a definition for “Sign language services” as the definition is not defined in statute nor Hawaii Administrative Rules nor Hawaii BOE nor rules or practices of the DOE as it pertains to HEARING children with disabilities (such as genetic disabilities or Down syndrome) who need sign language instruction in order to receive an equal opportunity for an education. Hawaii and federal law specifically addresses only services for deaf and hard of hearing students. REFERENCES: SB2910, DOE’s Report to 2011 Legislature, SCR195, SD1.**

**By deleting the ancient and de-grading definition of "Exceptional children" and adding “students with a disability” with appropriate language in line with federal special education and civil rights laws.**

Current statute: "Exceptional children" includes:

- (1) Persons under twenty years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; provided that "exceptional children" shall not include "gifted and talented children";
- (2) Persons under twenty years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and
- (3) Persons under twenty years of age who are certified by a licensed physician eligible for membership in the state medical society as being emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

**By clarifying “special education and related services” as they pertain to Charter schools in the definition of "Charter schools," and as related to Department teachers, staff and administrators who are expected to provide special education and related services to Charter school students (302B-15) cannot do so effectively because the charter school is unique. For example, an online charter school requires special education personnel to know the curriculum and provide flexibility as does the charter school. Clarify the role and responsibilities of the Local School Board regarding decisions and provision of special education and related services and not deferring to the DOE.**

Definition of “Charter schools: currently “means public schools holding charters to operate as charter schools under chapter 302B, including start-up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.”

“Complex Area and C.A. Superintendent.” Does complex include charter schools? What is the line of special education authority in both charter and regular public schools? Create a charter school district with special education authority.

Does “District” include charter schools? To what extent? virtual schools? state-wide charter schools? How are complex area superintendent Local School Boards, principals and students with disabilities work together for the education of the children? End the confusion by passing clear legislation.

Ref: SECTION 10. Section 302A-1143, Hawaii Revised Statutes, is amended to read as follows: "**§302A-1143 Attend school in what district.** All persons of school age shall be required to attend the school of the district in which they reside, unless enrolled in a Hawaiian language medium education program, charter school, or unless it appears to the department to be desirable to allow the attendance of pupils at a school in some other district, in which case the department may grant this permission."

**DO NOT REMOVE PARENT CHOICE and defer to the DOE’S DISCRETION. THERE IS PARENT CHOICE PER THE NCLB REFERRING TO THE DOE DETERMINING WHICH SCHOOLS CAN BE SELECTED FOR TRANSFER BASED ON AYP. THIS RULE SHOULD NOT APPLY TO GEOGRAPHIC EXCEPTIONS CONSIDERED AS THEY ARE NOW, SUCH AS GRANTING TO SIBLINGS OF CURRENT STUDENTS AT A NON-GEOGRAPHIC SCHOOL. Add clarification for all preschool as well as all disabled/special education students to have a right for a geographical exception or choice as do non-disabled students. Our special needs students should have a right for a G.E. as much as a non-disabled students, and make that distinction in our statute.**

Ref: SECTION 16. Section 302A-1401, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:

302A-1401 Administration and use of federal funds, including [pregrade] early education.

Does the definition of “early education” here include ages 0 to 8 as defined in 302A-101?

**Add the provision for Department of Education to agree with the Department of Health, per the IDEA of 2004 (federal special ed law) which allows the Department of Education to use its money to pay for continued early intervention services (currently from the Department of Health) for qualified children in lieu of special education preschool services.**

302A-461(b) THIS SECTION SHOULD NOT LIMIT TO GRADES 9-12, THERE ARE STUDENTS ELIGIBLE FOR SPECIAL EDUCATION WHO MAY NOT FALL UNDER THE CATEGORY OF "GRADES 9-12" YET ARE AGE 14 THROUGH 20. This section shall apply to public schools as defined in section 302A-101; provided that it shall apply to grades nine to twelve only. "SCHOOL AGE"?

302A-604, 1102, 1125 are not clear between BOE, DOE and charter schools. The BOE does not include a representative of charter school in its Weighted Student Formula council; it should.

Thank you for the opportunity to provide comments of proposed amendments to HRS 302A and for your further consideration to review the statute as it pertains to children with disabilities AND charter schools.

## LEGISLATIVE REPORT

**SUBJECT:** Urging the DOE to Incorporate Sign Language and Other Communication Strategies During Instruction to Enhance the Learning of Children with Cognitive and Other Disabilities

**REFERENCE:** SCR 195, SD1  
(2010)

**ACTION REQUESTED:** Action and report on subject matter. DOE is urged to establish an appropriate level of sign language proficiency for individuals in the Department who provide instruction to children with disabilities that will enable those individuals to incorporate sign language and other communication strategies during instruction to enhance their students' learning; and is also urged to facilitate the professional development, training, and preparation of educational personnel, service providers, and other individuals involved with the instruction of children with disabilities, through continuing education or other means, to use the total communication method, simultaneous communication, or sign language during instruction as determined by the child's Individualized Education Plan.

### **DOE REPORT:**

#### **Introduction:**

Department of Education (DOE) has a system in place to identify and address the needs of children with disabilities and to evaluate their instructional progress on an individual basis.

#### **FINDINGS:**

- The intent of SCR 195, SD1 is to urge educators to use sign language and other forms of communication during instruction for students with disabilities. The Individuals with Disabilities Act (IDEA) requires states to identify and address the educational needs of children with disabilities on an individual basis. DOE has a system in place to assess the needs of all exceptional children through the Individualized Education Program (IEP), and to provide those services deemed necessary based on the needs of the child.
- Department staff are either qualified, or trained, in skills and strategies to provide the quality and appropriate instruction to all children. School, complex area and state staff work together to plan appropriate professional development activities to address the individual needs of children with disabilities. For students who require sign language and other forms of communication during instruction, the Department

has a cadre of educational interpreters to meet the needs of what continues to be a low-incidence population.

**RECOMMENDATIONS:**

- Schools will continue to identify and address student educational needs as outlined in IDEA.
- Continue to implement research-based instructional practices professional development opportunities for educators of students with disabilities.