

# SB2134

Relating to Education

EDU, WAM

NEIL ABERCROMBIE  
GOVERNOR



KATHRYN S. MATAYOSHI  
SUPERINTENDENT

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 01/27/2014

**Committee:** Senate Education

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 2134 RELATING TO EDUCATION.

**Purpose of Bill:** Amends various sections of chapter 302A, HRS, to comply with the requirements of the federal Individuals with Disabilities Education Act.

**Department's Position:**

The Department of Education (Department) supports SB 2134.



## **HAWAII DISABILITY RIGHTS CENTER**

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

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

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

### **THE SENATE THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2014**

#### **Committee on Education Testimony in Support of S.B. 2134 Relating to Education**

**Monday, January 27, 2014, 1:15 P.M.  
Conference Room 414**

Chair Tokuda and Members of the Committee:

The Hawaii Disability Rights Center testifies in **support** of this bill.

In August 2013, the Hawaii Disability Rights Center, along with a team of attorneys from the law firm Alston, Hunt, Floyd and Ing won a Class Action lawsuit allowing students with disabilities to continue their education. The United States Court of Appeals for the Ninth Circuit struck down Act 163 which barred students from attending Hawaii public school after age 20. The Ninth Circuit ruled that since students without disabilities were allowed to continue their education in the community school for adults (a form of public education), students with disabilities must be allowed to continue their education under the Individuals with Disabilities Education Act until 22. The decision of the Court therefore allows special education students two more years of school.

This bill would codify the effect of that decision into the law. We are pleased to see the legislature acknowledge the Court's decision and we believe that both from a policy as well as a legal point of view it is the appropriate course of action.

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





COMMUNITY CHILDREN'S COUNCIL OF HAWAII  
1177 Alakea Street • B-100 • Honolulu • HI • 96813  
TEL: (808) 586-5363 • TOLL FREE: 1-800-437-8641 • FAX: (808) 586-5366

January 24, 2014

Senator Jill N. Tokuda, Chair  
Senator Michelle N. Kidani, Vice-Chair  
Chairs of the Education Committee – State Capitol

RE: SB2134 – Relating to Education  
Amends various sections of chapter 302A, HRS, to comply with the requirements of the federal Individuals with Disabilities Education Act.

Dear Chair Tokuda and Vice-Chair Kidani and Members of the Committee,

The 17 Community Children's Councils (CCCs) **strongly supports** SB2134 the proposed amendments however we are very concerned that the current language in the exceptional child law is antiquated and out of date. Therefore, we strongly recommend that the exceptional child law be amended to reflect current and appropriate language.

The 17 Community Children's Councils (CCCs) are community-based bodies comprised of parents, professionals in both public and private agencies and other interested persons who are concerned with specialized services provided to Hawaii's students. Membership is diverse, voluntary and advisory in nature. The CCCs are in rural and urban communities organized around the Complexes in the Department of Education.

Thank you for the opportunity to testimony if there are any questions or you need further information please contact us at 586-5370

Sincerely yours

Tom Smith, Co-Chair

Jessica Wong-Sumida, Co-Chair

(Original signatures are on file with the CCCO)



**S E A C**  
**Special Education Advisory Council**  
919 Ala Moana Blvd., Room 101  
Honolulu, HI 96814  
Phone: 586-8126 Fax: 586-8129  
email: spin@doh.hawaii.gov

January 27, 2014

**Special Education  
Advisory Council**

Ms. Ivalee Sinclair, *Chair*  
Ms. Martha Guinan, *Vice  
Chair*

Ms. Brendelyn Ancheta  
Dr. Tammy Bopp  
Dr. Robert Campbell  
Ms. Deborah Cheeseman  
Ms. Annette Cooper  
Ms. Shari Dela Cuadra-Larsen,  
*liaison to the Superintendent*  
Ms. Jenny Gong  
Ms. Gabriele Finn  
Ms. Tami Ho  
Ms. Barbara Ioli  
Ms. Valerie Johnson  
Ms. Deborah Kobayakawa  
Ms. Bernadette Lane  
Ms. Shanelle Lum  
Ms. Dale Matsuura  
Ms. Stacey Oshio  
Ms. Zaidarene Place  
Mr. Kenneth Powell  
Ms. Barbara Pretty  
Ms. Kau'i Rezentes  
Ms. Melissa Rosen  
Dr. Patricia Sheehy  
Mr. Tom Smith  
Ms. Lani Solomona  
Dr. Daniel Ulrich  
Ms. Amy Weich  
Ms. Cari White  
Ms. Susan Wood

Jan Tateishi, Staff  
Susan Rocco, Staff

Senator Jill Tokuda, Chair  
Senate Committee on Education  
State Capitol  
Honolulu, HI 96813

RE: SB 2134 - RELATING TO EDUCATION

Dear Chair Tokuda and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under the Individuals with Disabilities Education Act (IDEA), **supports** SB 2134 which amends Section 302A-101 of Hawaii Revised Statutes to bring Hawaii's age limit for students with disabilities receiving special education services into compliance with the Individuals with Disabilities Education Act (IDEA).

However, if the stated purpose of this legislation is to comply with IDEA, then SEAC strongly recommends that the definition of "exceptional children" in Section 2 be stricken and replaced the following adaptation of the definition of a "student with a disability" found in Hawaii's administrative rules for the provision of a free appropriate public education for a student with a disability in accordance with IDEA--Chapter 60:

"Student with a disability" means a student age three to twenty-two residing in the State, evaluated in accordance with Chapter 60 as deaf, hard of hearing, having an intellectual disability, a developmental delay, a speech or language disability, a visual disability (including blindness), an emotional disability, an orthopedic disability, autism spectrum disorder, traumatic brain injury, a specific learning disability, deaf-blindness, multiple disabilities, or other health disability, and who, by reason thereof, needs special education and related services.

The term "exceptional children" is no longer used by the federal government to describe children with disabilities. As federal special



education law has evolved from the original Education for All Handicapped Children Act in 1975 to the Individuals with Disabilities Education Act (first termed as such in 1990) amendments, the emphasis has been increasingly on the individual student and his or her access to the general education curriculum in the least restrictive environment.

The current language in Section 302A-101 under the definition of “exceptional children” speaks of exclusion and the inability of students with disabilities to benefit from “ordinary instructional methods.” These descriptions are not only antiquated, but also offensive to the disability community and contrary to the spirit of IDEA. More to the point, they are out of sync with Chapter 60, signed into law in November 2009.

Thank you for the opportunity to provide testimony on this legislation. If you have any questions, or if SEAC can be of assistance in redrafting language for Section 302A-101, please do not hesitate to contact me.

Respectfully,

Ivalee Sinclair, Chair