



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

**Date:** 03/13/2018  
**Time:** 09:30 AM  
**Location:** 016  
**Committee:** Senate Judiciary

**Department:** Education

**Person Testifying:** Dr. Christina M. Kishimoto, Superintendent of Education

**Title of Bill:** HB 2418, HD1 RELATING TO FUNDS USED FOR THE SETTLEMENT OF CLAIMS.

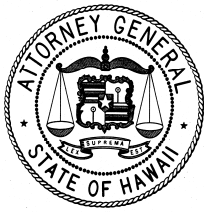
**Purpose of Bill:** Authorizes the Department of Education to expend previously appropriated funds to satisfy the settlement of class counsel attorney's fees related to a class action lawsuit against the State. (HB2418 HD1)

**Department's Position:**

The Department supports the intent of HB 2418, HD 1. The Department was aware of the settlement, associated attorney fees, and had planned accordingly to cover costs for this case, without a separate appropriation request via ATG-1. However, this is a unique circumstance driven by the expansiveness of the case, as it relates to the change in requirements for special education services up to age 22.

The Department supports the amendment as written in HD1 Section 2 related to the lapsing of any balance.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at [www.hawaiipublicschools.org](http://www.hawaiipublicschools.org).



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2418, H.D. 1, RELATING TO FUNDS USED FOR THE SETTLEMENT OF CLAIMS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, March 13, 2018

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Anne Horiuchi, Deputy Attorney General, or  
Ryan Roylo, Deputy Attorney General, or  
Holly Shikada, Deputy Attorney General

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Chair Taniguchi and Members of the Committee:

The Department of the Attorney General ("Department") supports this bill.

The purpose of this bill is to authorize the Department of Education to expend previously appropriated funds to satisfy the settlement of class counsel attorney's fees related to a class action lawsuit against the State.

The expenditure of \$1,500,000 is that portion of the settlement negotiated, with the assistance of the United States District Court for the District of Hawaii, to satisfy class counsel's attorney's fees. This case was in litigation for seven (7) years. The State originally prevailed at trial, but the trial decision was overturned by the Ninth Circuit Court of Appeals and remanded for a determination of the appropriate remedy for Class Members. The negotiations relating to the remedies took place over a four (4) year time span. The Department submits that \$1,500,000 in attorney's fees for class counsel is reasonable in this case.

Thank you for the opportunity to provide testimony in support of this bill.



**S E A C**  
**Special Education Advisory Council**  
1010 Richard Street, #118, Honolulu, HI 96813  
Phone: 586-8126 Fax: 586-8129  
email: seac.hawaii@gmail.com

March 13, 2018

**Special Education  
Advisory Council**

Ms. Martha Guinan, *Chair*  
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Dr. Patricia Sheehey, *Vice  
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Dr. Todd Takahashi  
Dr. Daniel Ulrich  
Mr. Steven Vannatta  
Mr. Gavin Villar  
Dr. Amy Wiech  
Ms. Jasmine Williams  
Ms. Susan Wood

Dr. Robert Campbell, *liaison  
to the military*  
Dr. Christina Tydeman, *liaison  
to the Superintendent*

Amanda Kaahanui, Staff  
Susan Rocco, Staff

Senator Brian T. Taniguchi, Chair  
Committee on Judiciary  
Hawaii State Capitol  
Honolulu, HI 96813

RE: H.B. 2418, H.D. 1 - RELATING TO FUNDS USED FOR THE  
SETTLEMENT OF CLAIMS


Dear Chair Taniguchi 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 the intent of H.B. 2418, H.D. 1 which authorizes the Department of Education to expend previously appropriated funds to satisfy the settlement of class counsel attorney fees related to the *E.R.K. v. DOE* decision by the 9th Circuit Court of Appeals.

In anticipation of the final settlement regarding compensatory services for the E.R.K. class members, the Department of Education reserved funds from salary savings over the course of several years to pay plaintiff attorneys. SEAC finds this expenditure appropriate as it was related to IDEA services which should have been provided to these plaintiffs up until their 22nd birthday, assuming their continued eligibility for special education and related services.

Thank you for this opportunity to provide our testimony. If you have further questions, please feel free to contact us.

Respectfully,

  
Martha Guinan  
SEAC Chair



Ivalee Sinclair  
Legislative Committee Chair