

DAVID Y. IGE  
GOVERNOR



JOHN S.S. KIM  
CHAIRPERSON

STATE OF HAWAII  
**STATE PUBLIC CHARTER SCHOOL COMMISSION**  
**(‘AHA KULA HO‘ĀMANA)**

<http://CharterCommission.Hawaii.Gov>  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

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FOR: SB 2085 SD1 Relating to Behavior Analysis  
DATE: February 19, 2020  
TIME: 10:00 A.M.  
COMMITTEE: Committee on Ways and Means  
ROOM: Conference Room 211  
FROM: Sione Thompson, Executive Director  
State Public Charter School Commission

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Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Committee:

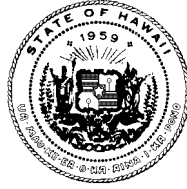
The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in **SUPPORT of SB 2085 SD1**. This measure provides funds to the Department of Education (DOE) to provide public school students, including public charter school students, with behavior analysis services.

The Commission strongly supports the amendments provided by the Committee on Education which **clarified that these services and the funding to provide these services are available to public charter school students** as well as students in department schools.

The Commission looks forward to collaborating with the committee, the DOE, other interested stakeholders, and public charter schools in moving this legislation forward.

Thank you for the opportunity to provide this testimony.

DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

CATHY BETTS  
DEPUTY DIRECTOR

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

February 18, 2020

TO: The Honorable Senator Donovan M. Dela Cruz, Chair  
Senate Committee on Ways and Means

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2085 SD1 – RELATING TO BEHAVIOR ANALYSES**

Hearing: February 19, 2020, 10:00 a.m.  
Conference Room 211, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) offers information and comments.

**PURPOSE:** The purpose of this bill is to fund behavior analysis services for public school students.

DHS defers to the Department of Education on the amendments offered by the Committees on Education and Human Services. DHS appreciates the intent to expand applied behavior analysis services for public school students by appropriating additional resources for these services and offers comments relative to Section 3 of the bill. Section 3 requires the Department of Education (DOE) to seek any necessary approvals from the Centers for Medicare and Medicaid Services (CMS) to amend the Medicaid State Plan to provide reimbursements for applied behavior analysis services to Medicaid-eligible students diagnosed with an autism spectrum disorder. Importantly, as the authorized single-state Medicaid agency, the DHS Med-QUEST Division (MQD) is the only entity that has the authority to seek state plan amendments.

DHS notes that currently, although there is no specific reference to Applied Behavior Analyses in the Medicaid State Plan, DOE would be able to bill for those services if all the necessary criteria were met. However, DHS-MQD in collaboration with DOE could submit such

a state plan amendment if the legislature directed it. DHS-MQD and DOE are working and will continue to work together to facilitate billing for eligible services.

Thank you for the opportunity to testify on this bill.



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

**Date:** 02/19/2020

**Time:** 10:00 AM

**Location:** 211

**Committee:** Senate Ways and Means

**Department:** Education

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

**Title of Bill:** SB 2085, SD1 RELATING TO BEHAVIOR ANALYSIS.

**Purpose of Bill:** Appropriates funds to the Department of Education to provide public school and public charter school students with behavior analysis services. Requires the department to seek any necessary approvals from the Centers for Medicare and Medicaid Services to amend the state Medicaid plan to include applied behavior analysis services for eligible students who have been diagnosed with an autism spectrum disorder. (SD1)

**Department's Position:**

The Department of Education (Department) supports the intent of SB 2085, SD1 which requests a general fund appropriation for fiscal year 2020-2021 to provide public school students with behavior analysis services.

The amended language ensuring the provision of such services are provided by individuals permitted to perform services pursuant to Chapter 465D-7 secures a more comprehensive behavioral assessment for our students.

Thank you for the opportunity to provide testimony on this measure.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. 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).

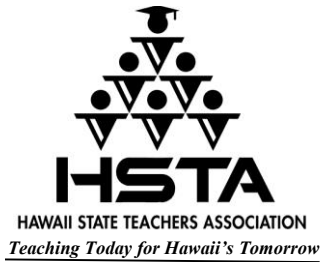
**SB-2085-SD-1**

Submitted on: 2/14/2020 7:23:33 PM

Testimony for WAM on 2/19/2020 10:00:00 AM

| <b>Submitted By</b> | <b>Organization</b>                            | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|--|---------------------------|---------------------------|
| Louis Erteschik     | Testifying for Hawaii Disability Rights Center | Support                   | No                        |

Comments:



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Executive Director

## TESTIMONY BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

RE: SB 2085, SD1 - RELATING TO BEHAVIOR ANALYSIS

WEDNESDAY, FEBRUARY 19, 2020

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Dela Cruz and Members of the Committee:

The Hawaii State Teachers Association **supports SB 2085, SD1**, relating to behavior analysis. This bill will provide the HIDOE with funding to hire licensed behavior analysts, or psychologists with the licensed psychologists' right to practice applied behavior analysis (ABA), who have ABA in their "education, training, and competence, either as employees of the department or by contracting with the many private providers, until the HIDOE has built their capacity for these professionals within the department.

Behavior analysis means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, as well as the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop positive behaviors.

Act 199, Session Laws of Hawaii 2015, established the behavior analyst program within the Department of Commerce and Consumer Affairs and created licensing requirements for behavior analysts. Licensing of behavior analysis services was made concurrent with mandated insurance coverage for diagnosis and treatment related to autism disorders, with which nearly 1,500 public school students are currently diagnosed. Act 205 further clarified the licensing qualifications for those who conduct Functional Behavior Assessments (FBAs), and design and monitor Applied Behavior Analysis (ABA) Plans in our state.

According to *Report on Behavior Analyst and Certification Requirements Implementation*, released by the DOE on January 5th, 2018, the department has been supporting efforts for 39 DOE personnel to become BCBAs in an approved program,

and assisting another 145 departmental personnel in becoming Registered Behavior Technicians (RBTs) by 2019. HSTA has not received the latest update as to the progress of these DOE personnel and if they have become BCBAs or RBTs, however, we have seen progress, but not enough have received the license as of yet, thus the HIDOE will need more funds to ensure this is the direction they are heading, but to hire outside LBAs or RBTs as necessary until they have built capacity within the HIDOE. Our teachers sometimes need the support of other professionals with other areas of expertise; this area is one of them.

To improve the learning experiences of our most vulnerable keiki, the Hawaii State Teachers Association asks your committee to **support** this bill.



## **SENATE BILL 2085, SD1, RELATING TO BEHAVIOR ANALYSIS**

FEBRUARY 19, 2020 · SENATE WAYS AND MEANS  
COMMITTEE · CHAIR SEN. DONOVAN DELA CRUZ

**POSITION:** Support.

**RATIONALE:** The Democratic Party of Hawai'i Education Caucus supports SB 2085, SD1, relating to behavior analysis, which appropriates funds to the Department of Education to provide public school and public charter school students with behavior analysis services and requires the department to seek any necessary approvals from the Centers for Medicare and Medicaid Services to amend the state Medicaid plan to include applied behavior analysis services for eligible students who have been diagnosed with an autism spectrum disorder.

Hawai'i's special needs students deserve our help. For the 2017-2018 school year, the statewide achievement gap between high needs students—which includes SPED children, English language learners, and economically disadvantaged students—and non-high needs students was 32 percent for language arts and 28 percent for math. While State Superintendent Christina Kishimoto and the Hawai'i Board of Education have prioritized closing the achievement gap, doing so requires providing additional resources, including for behavior analysis services.

Behavior analysis involves the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes the empirical identification of functional relations between



behavior and environmental factors, known as functional assessment and analysis, as well as the use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop positive behaviors.

Act 199, Session Laws of Hawaii 2015, established the behavior analyst program within the Department of Commerce and Consumer Affairs and created licensing requirements for behavior analysts. Licensing of behavior analysis services was made concurrent with mandated insurance coverage for diagnosis and treatment related to autism disorders, with which nearly 1,500 public school students are currently diagnosed.

Yet, the DOE is experiencing a shortage of licensed behavior analysts. To rectify this problem, the department originally sought to allow teachers to perform behavior analysis and prescribe services. Teachers are not trained or qualified to make behavioral diagnoses, however, and being compelled to do so would reduce time to prepare for and perform the professional tasks that comprise the practice of teaching, like innovative lesson planning, professional development and collaboration, and delivery of individualized and personalized learning.

According to *Report on Behavior Analyst and Certification Requirements Implementation*, released by the DOE in 2018, the department was, at that time, supporting efforts for 39 DOE personnel to become BCBAs in an approved program and assisting another 145 departmental personnel in becoming Registered Behavior Technicians by 2019. Our state should continue funding the training of BCBAs and RBTs, as well as the provision of their services, to ensure that all students requiring behavioral support receive the care they need to fulfill their individualized education program requirements and achieve their fullest potential.



COMMITTEE ON WAYS AND MEANS  
Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, February 19, 2020  
10:00 A.M.  
Conference Room 211 State Capitol 415 South Beretania Street

**Support of SB2085 SD1**

Honorable Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

Thank you for the opportunity to testify on this measure, which seeks to allocate funding for ~~the provision of~~ behavior analysis ~~services~~ for public and charter school students within the Department of Education schools. The Hawai'i Association for Behavior Analysis (HABA) supports the amendments made by the ~~previous Joint Committees on Education and Human Services, further clarifying requiring~~ that these services be provided by are restricted to individuals who possess a licensed to practice behavior analysis pursuant to HRS 465D.

HABA believes that the SD1 version of this bill will maintain the quality of the services provided to students, and also provide a path towards obtaining Medicaid reimbursement for the services.

Mahalo,

Kyle Machos  
President, Hawai'i Association for Behavior Analysis  
On behalf of the HABA Board, Legislative Committee, and Members

**SB-2085-SD-1**

Submitted on: 2/17/2020 1:56:58 PM

Testimony for WAM on 2/19/2020 10:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Amanda N. Kelly     | Individual          | Support                   | No                        |

Comments:

Thank you for the opportunity to testify on this measure. I strongly support SB2085, and the amendments made by the previous committee, which clarify that ABA services are restricted to individuals who possess a license to practice behavior analysis in the state.

Please feel free to contact me with questions.

Mahalo,

Amanda N Kelly, PhD, BCBA-D, LBA (BA-1)

amanda.n.kelly@hotmail.com

**SB-2085-SD-1**

Submitted on: 2/18/2020 8:20:36 AM

Testimony for WAM on 2/19/2020 10:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Kristen Koba-Burd   | Individual          | Support                   | No                        |

Comments:

I support the amended language of SD1.