



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

**Date:** 02/10/2022

**Time:** 02:00 PM

**Location:** 309 Via Videoconference

**Committee:** House Education

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Interim Superintendent of Education

**Title of Bill:** HB 2457 RELATING TO STUDENT OUT-OF-SERVICE-AREA ATTENDANCE.

**Purpose of Bill:** Prohibits the Department of Education from mandating that any student attend a school outside the student's service area. Establishes a five-year phaseout period. Requires the Department of Education to submit annual progress reports.

**Department's Position:**

The Hawaii State Department of Education (Department) respectfully offers comments on HB 2457, which removes the Department's authority to mandate out-of-service-area attendance.

While it has the ability to mandate out-of-service-area attendance, the Department rarely exercises this provision.

The intent of this bill seems to be focused on the issue of overcrowding and the desire for eliminating multi-track schedules in schools in the Kapolei complex. In line with Act 116, Session Laws of Hawaii 2015, the Department has developed a transition plan to end the use of multi-track schedules in public schools. This plan has already seen success in moving Kapolei Middle School to a single-track schedule soon to be followed by Mililani Middle School. Should the desire for this measure be to find solutions to moving the last school to a single-track schedule, the Department is open to having a continued dialogue with the Legislature to share its plans for completely eliminating multi-track schools in the state.

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



**HB-2457**

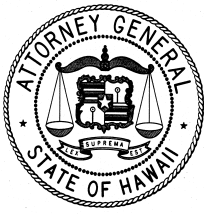
Submitted on: 2/10/2022 9:24:57 AM

Testimony for EDN on 2/10/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Keith Hayashi	Hawaii Department of Education	Comments	Yes

Comments:

Comments



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2022**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 2457, RELATING TO STUDENT OUT-OF-SERVICE-AREA ATTENDANCE.

**BEFORE THE:**

HOUSE COMMITTEE ON EDUCATION

**DATE:** Thursday, February 10, 2022      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 309, Via Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Anne T. Horiuchi, Deputy Attorney General

---

Chair Woodson and Members of the Committee:

The Department of the Attorney General (Department) has concerns about this bill and provides the following comments.

The bill prohibits the Department of Education (DOE) from mandating that any student attend a school outside the student's service area, unless that out-of-service area attendance is mandated by federal law. The bill further establishes a five-year phaseout period and requires the DOE to submit annual progress reports.

A student is required to attend the school in that student's service area, as determined by the DOE, in which the student resides. See section 302A-1143, Hawaii Revised Statutes (HRS). The Department submits that the bill could create situations where the DOE will run afoul of the Individuals with Disabilities Education Act (IDEA), as amended in 2004, codified at 20 U.S.C. § 300.1, *et seq.*, and Hawaii Administrative Rules § 8-60-1, *et seq.* The IDEA requires that the DOE provide a free appropriate public education (FAPE) to eligible students. During the development of an eligible student's Individualized Education Program (IEP), the IEP team may determine that, in order to offer the student a FAPE, the least restrictive environment may be located at a school outside of the student's service area. The bill would prohibit the DOE from placing that student at a school outside of the student's service area, even if the IEP has determined that such placement is appropriate.

The Department acknowledges that, arguably, an IEP team's determination that a student should be placed at a school outside of the student's service area may be a determination "mandated by federal law." However, the Department submits that this situation is not clear from the current wording of this bill. The Department respectfully asks the Committee to hold this bill, or to provide clarity by amending the bill to state that the prohibition does not apply to determinations made by IEP teams. Possible wording for such an amendment could be added to section 302A-1143, HRS, beginning at page 3, line 1, of the bill, as follows:

"(3) Out-of-service-area attendance is mandated by ~~[the department or by]~~ federal law[-], or the person's Individualized Education Program Team determines that a placement outside of the person's service area is recommended."

Thank you for the opportunity to provide our comments.

**HB-2457**

Submitted on: 2/9/2022 3:25:42 PM

Testimony for EDN on 2/10/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Makanoe Hufana	Individual	Support	No

Comments:

I support HB2457

Mahalo Makanoe Hufana