

Date of Hearing: February 11, 2009

Committee: House Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. 1648, Relating to Education

Purpose: Provides parents of children with disabilities with additional flexibility in choices relating to education.

Department's Position: The Department of Education (Department) is not in support of H.B. 1648. The Individuals with Disabilities Education Act does not require school districts to provide Free Appropriate Public Education (FAPE) to children who are home schooled by their parents. The insertion of, "including homes where the child is home schooled" in Section 302A-436 of the Hawaii Revised Statutes would require the Department of Education to provide services not intended by federal law. This would impose additional cost and resources to the Department.

Amending §302A-1443 circumvents Hawaii Administrative Rule, Chapter 13, Geographic Exceptions. Chapter 13 is the process for parents to apply to any public school for their child, including exceptional students. An "exceptional student" means any student who is found eligible for special education and related services.

The insertion in §302A-1143 of “provided that a child with a disability shall be granted permission to attend a school outside of the district in which they reside, upon request by the parent or guardian of the child with a disability” would impose additional cost and resources to the Department.

We concur with the intent of deleting from §302B-15, “that the department may offer for purchase by a charter school at an annual cost to be negotiated between an individual charter school and the department,” however, the corollary contract statement, “The department shall enter into a contract with a charter school to provide these services, which shall be renegotiated on an annual basis,” must also be deleted. The Department and the charter schools have collaboratively developed the “Hawaii Primers on Special Education and Public Charter Schools” which includes services to special education students.

The Department does not support H.B. 1648.

Teresa Chao Ocampo
215 N. King Street, Apt. 207
Honolulu, HI 96817

February 9, 2009

Representative Roy Takumi, Chair
Representative Lyla Berg, Vice-Chair
House Education Committee

-and-

Representative Karl Rhoads, Chair
Representative Kyle Yamashita, Vice-Chair
Labor and Public Employment Committee
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: HB 1648 (Education: Children with Disabilities) to be heard by EDN-LAB on Wednesday, 2-11-09 at 2:00pm in House Conference Room 309.

As a parent of a special needs child, I am in strong support HB 1648. The purpose of this bill is not to provide any ADDITIONAL special education resources to a special needs child but to allow a special needs child to receive the SAME education as any other special needs child would if enrolled in a public school.

Children are home-schooled for various reasons. These reasons can range from severe behavioral issues, medical disabilities, religious beliefs, safety to educational differences. Regardless of the parent's reasons, home-schooled special needs children are still entitled to receive the same special education services such as speech, occupational therapy, physical therapy, or skills training as their public school counterparts.

If the DOE determines that a child is eligible for special education, then whether the child is home-schooled or not, the responsibility in providing a Free Appropriate Education is still that of the DOE.

restricted to her wheel chair with minimal abilities to ambulate without assistance.

The shining star in this scenario was that this child was extremely bright despite her disabilities. Her mother knew that her daughter needed to be with other typically developing 7 year-old children in a regular classroom and she fought to have her daughter placed in such an environment. She soon discovered that the school was unable to undertake the medical requirements as described in the child's IEP since the school was in fact, just that, a school with teachers who have little to no medical knowledge. The nurse on duty was not qualified to take care of such a child and therefore safety issues were a major factor in this parent's decision to have her daughter home-schooled.

Although the school acknowledged that the child required special education by providing a comprehensive IEP while she was in the public school, the school refused to provide this child with the same services in her home. The child had an IEP that offered an array of services including speech, occupational therapy, physical therapy and skills training, however, these services were terminated once the child was taken out of the school.

The parent decided to home-school her daughter for safety and health reasons because the school was ill-equipped to physically care for this child and yet, the school seemingly took advantage of this situation and violated this child's educational rights.

This bill, HB1648, would afford these children the same fundamental rights that all children have as a citizen of the United States. The provision of services would parallel those provided via the Department of Health's Early Intervention program where services are provided in the home for preschoolers.

The provision of these services in this manner would benefit the state in the following ways:

1. The costs to educate a special needs child in the home would be far less than it would for this same child to attend a public school because much of the financial responsibilities to the school would be lessened.
2. Providers who come to the home can give greater attention to a single child therefore affording the child greater chances of progress leading to a tapering of services in future years compared

- to a child who may require more services in a public school environment,
3. Additional supports such as a licensed nurse, CPR qualified personnel, etc. that the school may be required to provide for a medically fragile child would not be necessary,
 4. Liability for injury or negligence would be minimized if the child was home-schooled,
 5. The school would be required to provide less special education simply due to the home-school placement, thus saving the school extra costs,
 6. The public school would still be able to provide FAPE as the responsible party,
 7. There would be a lower probability of parents filing for due process in these situations, again saving on costs.

Overall, this is a fair and equitable compromise for parents and the DOE both financially and educationally.

2) In reference to affording special needs children the same rights as regular education students related to granting geographical exceptions and admission to charter schools, the solution is obvious. It is no secret that most public schools under the Department of Education openly discriminate against special needs children when their parents seek geographical exceptions into a public school other than the "home" school or charter school. Usually the issue revolves around the lack of funding for special education services. However, the fact remains that public schools as well as charter schools are funded by ALL taxpayers of Hawaii. Denial of these students into ANY public school including charter schools is a blatant violation of the child's rights and federal law.

As per the attached memo from the Superintendent, Ms. Patricia Hamamoto, to the Complex Area Superintendents, School Principals and Public Charter Schools, dated August 9, 2005, it states that she will act as the Board of Education's agent in the implementation and compliance with all federal and state laws including IDEA , Chapter 56, and Section 504 **in the monitoring, compliance, service delivery, and equity** of special education services in all public schools, including public charter schools to be collectively known as the "public schools."

Although the Superintendent acknowledged her responsibility and duty to the special needs students, it is common knowledge that Charter schools receive far fewer resources and funding including those for the provision of special education services to their special need students as outlined in HB1648. These actions directly conflict with her duties assigned to her by

the Board of Education as stated in her memo. Where is the demand for accountability?

The DOE's own statistics below show how Charter schools have experienced exponential growth compared to the continued decline in enrollment in the public schools. In the last seven years, the charter school enrollment of regular students has increased by 396.4% and 356.5% for special education students while the public school enrollment declined in both categories.

School year 2000-2001: (DOE Official Enrollment)

Charter schools	1,341 students	115 special education
Total DOE	183,520	20,138
Percent	0.73%	0.57%

School year 2007-2008: (DOE Official Enrollment)

Charter schools	6,657	525
Total DOE	178,369	18650
Percent	3.73%	2.81%

Change in 7 years:

Charter schools	396.4%	356.5%
Total DOE	-2.81%	-7.39%

The DOE's Official Enrollment for SY 2007-2008 showed that the percent change in the Charter schools from the previous school year in special education students was EVEN GREATER at 25.3% and in total enrollment at 17.2%.

The DOE cannot continue to ignore this increasing trend where many parents of regular education and special education students are choosing the Charter schools over the public schools. Perhaps it is the fear of this preference that drives the DOE's need to control the Charter schools. By limiting their funds, even the regular education children in these schools suffer.

The attached Organization chart dated 6/30/07 from the Department of Education shows that the Charter School Administrative Office is at the SAME administrative level as the Office of the Superintendent. Therefore, both offices are bound by the SAME responsibilities and duties required by law to educate its students, regular and special needs to the best of their abilities under all federal and state laws. Charter school students are not second-class students and should be treated this way.

The legislature and both committees must consider their responsibilities to ALL children of Hawaii. Special needs children must be educated as per the Individuals with Disabilities Education Act and Federal Civil Rights laws regardless of their enrollment in a Charter school or public school as is afforded to them as their rights as a citizen of this state and country. Anything less would be discrimination based on the child's disability.

In conclusion, as a taxpayer and a parent of a special needs child, I urge you to strongly support HB 1648. Please make special education equitable to all children who need these services regardless of their school, whether it is in the home, charter school or public school.

All special needs children are not created the same but they all have the same educational rights.

Sincerely,

Teresa Chao Ocampo 

Encl: August 9, 2005 memo from Ms. Patricia Hamamoto to Complex Area Superintendents and School Principals and Public Charter Schools

Encl: Organization Chart of the State of Hawaii Department of Education dated 6/30/07

LINDA LINGLE
GOVERNOR



PATRICIA HAMAMOTO
SUPERINTENDENT

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

OFFICE OF THE SUPERINTENDENT

August 9, 2005

TO: Complex Area Superintendents and School Principals and Public Charter Schools

FROM: Patricia Hamamoto, Superintendent

Subject: Authority for Special Education in Hawaii Public Schools

Pursuant to the action taken by the Board of Education (BOE) on May 5, 2005, the BOE has designated the Superintendent of the Department of Education (DOE) as its agent to oversee the implementation and compliance with all federal and state laws of special education services in all public schools regarding the provision of special education services to exceptional children, including public charter schools, hereafter collectively to be referred to as "public schools."

In order to increase clarity and ensure monitoring, compliance, service delivery, and equity, the BOE has determined that the superintendent, acting in his/her capacity as the State Educational Agency, shall have direct line of authority for the implementation of the Individuals with Disabilities Education Improvement Act (IDEA) Reauthorized 12/3/04, Section 504 of the Rehabilitation Act of 1973, HRS § 302A-463 and HRS 302A-1188 (Act 87, Part V, Section 18) in all public schools and shall be responsible for the provision of a free appropriate public education. [See attachment, "Authority for Special Education (SPED) in Hawaii Public Schools (DOE and Public Charter Schools)"].

The superintendent may authorize the Complex Area Superintendent (CAS) to oversee matters related to implementation, compliance, and monitoring of special education students within his/her complex and to further serve as the direct line of authority to all public schools within the complex. The CAS may authorize district offices to provide special education services, related services, and technical assistance for IDEA and Section 504 students in all public schools.

Additionally, the superintendent may authorize the Special Education Section to oversee matters related to implementation, compliance, and monitoring of special education students, related services, and provide technical assistance to all public schools, and to serve as a liaison to the Public Charter Schools Administrative Office and the local public charter school boards.

If you have any questions, please call Ms. Patricia Dong, Educational Specialist for Charter Schools, at 733-4403.

PH:PD:pd

Attachment

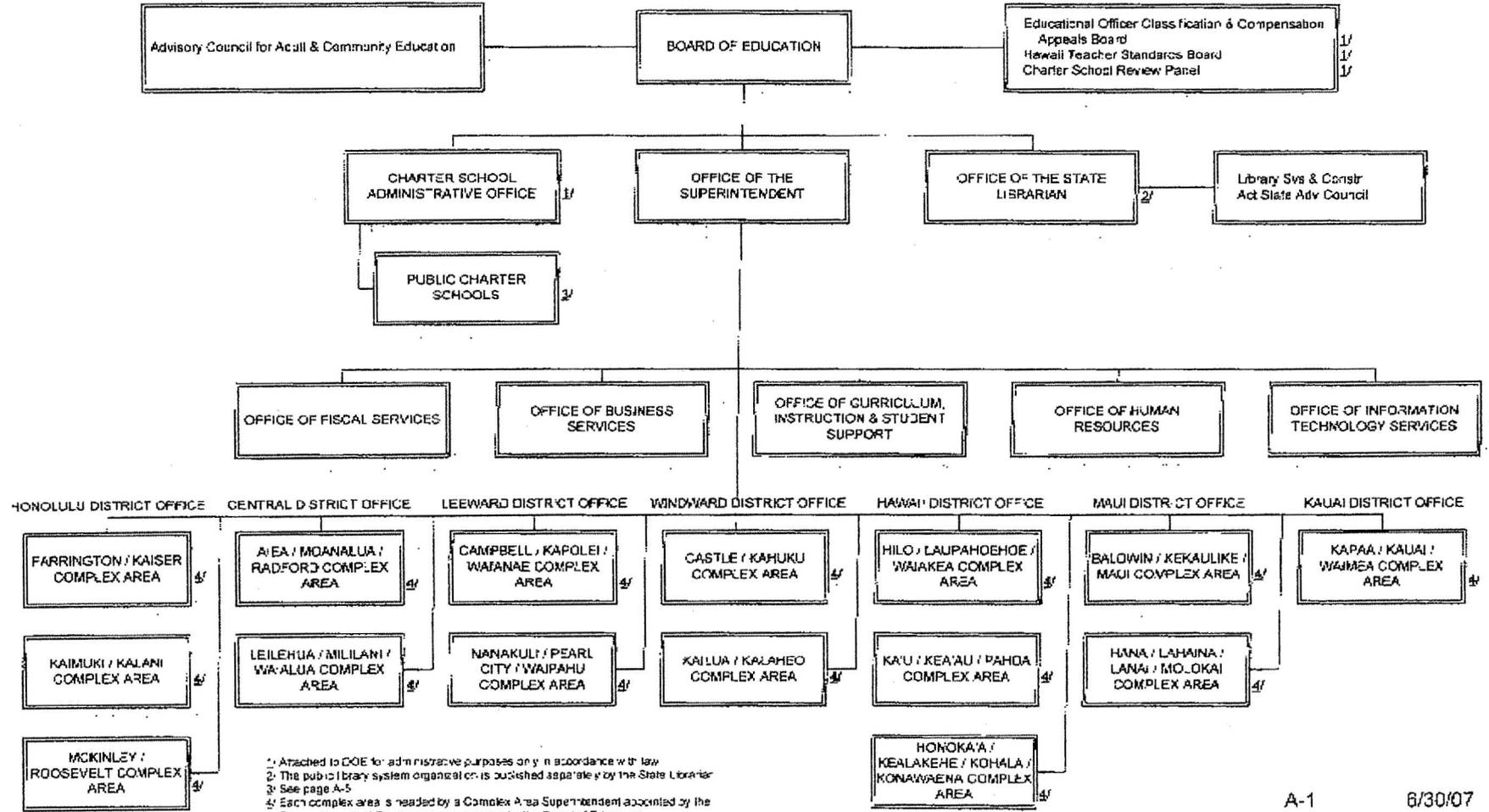
Noted:

Breene Harimoto, Chairperson
Board of Education

Date

- c: Assistant Superintendents
- Superintendent's Branch Directors
- Ms. Holly Shikada, Deputy Attorney General, Department of the Attorney General,
Education Division
- The Honorable Norman Sakamoto
- The Honorable Roy Takumi
- District Educational Specialists
- Local Public Charter School Boards
- Office of Curriculum, Instruction and Student Support
- Public Charter Schools Program Office
- Public Charter Schools Administrative Office

STATE OF HAWAII
DEPARTMENT OF EDUCATION
ORGANIZATION CHART



A-1 8/30/07

berg1-Liz

From: AJ [kimuraa014@hawaii.rr.com]
Sent: Tuesday, February 10, 2009 8:38 PM
To: EDNtestimony
Subject: HB #1648

*Dear Sir,
I would like to support HB#1648.
I am the mother of a special needs
child myself. Life is hard enough
without having to fight for proper
legislation and fairness for our
children. Please kokua in this matter.
Mahalo,
April Kimura*