

LATE

Attention: COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun Oakland, Chair, and Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON HEALTH

Senator David Y. Ige, Chair, and Senator Josh Green, M.D., Vice Chair

Testimony by: Linda Elento, Parent and Member of the Hawaii Down Syndrome Congress

Hearing: Tuesday, February 10, 2009, 1:15 pm, Conference Room 016

## SB182

Relating to Children: Early Intervention Services; Individuals with Disabilities Education Improvement Act of 2004

I support the opportunity for parents to choose to continue early intervention services for their children with a disability, including children with Down syndrome such as my youngest son, Jason, in lieu of preschool special education services. Both services are mandated by federal law according to age.

However, in December 2004, the federal law, a.k.a. the *Individuals with Disabilities Education Act* was re-authorized in 2004 giving the state the discretion and option to allow parents to continue early intervention services, as described in the attached letter I received from U.S. Senator Daniel Akaka, dated April 21, 2006, when their children are also deemed eligible to receive preschool special education services.

With respect to the unique developmental and medical needs of children with disabilities, such as children diagnosed with Down syndrome at birth or very low birth weight, their parents and families, the quality and expertise of the early intervention providers in Hawaii, and the new provisions of the IDEA and its implementing regulations (found in Part C), I ask the Committees on Human Services and on Health to amend this bill to effectively require the state to provide the option for parents to individually choose early intervention services in lieu of special education preschool services in the following manner:

SECTION 2 of the bill:

§321-351[+] **Definitions.**

"Act" means the *Individuals with Disabilities Education Improvement Act of 2004.*

"Infant or toddler with a disability"

(3) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include--

(i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and

(ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive

services under Part C of the Act or participate in preschool programs under section 619;

(iii) The continuation of service coordination or case management as provided under the Act.

SECTION 3 of the bill:

**"§321-352 Early intervention services for infants [~~and toddlers with special needs~~] or toddlers with disabilities.**

The department as the lead agency for Part C services of the Act and the Department of Education as the lead agency for Part B services of the Act, including section 619, shall execute a memorandum of understanding to provide for the continuation of early intervention services as provided in this section, with the agreement that federal and state funds allocated for Part B services for an eligible child would provide for early intervention services according the child's Individual Family Service Plan.

SECTION 4 of the bill:

Each member shall be appointed by the governor.

Each member shall be limited to one re-appointed term.

SECTION 5 of the bill:

I comment that the current statute's provision for §321-357 Early intervention funds; purpose and use. (b) (1) "or at biological or environmental risk" is a state's discretionary decision and is not mandated by federal law, as is the allowance for a parent to choose to continue early intervention services is at the state's discretion.

In the event funds are at risk to even consider the continued early intervention services for children not eligible for special education preschool services as allowed for in this bill's current state, I ask the Committees to ---

- (1) evaluate that additional funds would not be required to allow for parents to make a choice to continue early intervention services in lieu of special education preschool services, and that in previous legislative testimonies the departments of health and of education provided average estimates of close to \$7,000 per child receiving early intervention services and \$17,000 per child receiving special education preschool services; and
- (2) to consider these amendments, as stated in this written testimony, to this statute including the requirement of an agreement between the departments of health and education. The department of human services should also be consulted, as they provide many educational opportunities for our pre-kindergartners, which will fill the requirement of the federal law: "An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills."

Thank you for the opportunity to request these changes to our current early intervention system by providing life-changing choices to our disabled infants and toddlers before they are ready to head to school.

LATE

Attachment to Testimony by Linda Elento - SB182:

34 CFR (Federal Regulations Implementing the *Individuals with Disabilities Education Improvement Act of 2004*)

Sec. 300.25 Infant or toddler with a disability.

Infant or toddler with a disability--

(a) Means an individual under three years of age who needs early intervention services because the individual--

(1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

(2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and

**(b) May also include, at a State's discretion--**

(1) At-risk infants and toddlers; and

(2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include--

(i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and

(ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619.

(Authority: 20 U.S.C. 1401(16) and 1432(5))

DANIEL K. AKAKA  
HAWAII

WASHINGTON OFFICE  
145 EAST SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
TELEPHONE: (202) 224-3893

HONOLULU OFFICE  
2100 KALIHI DRIVE, SUITE 1000  
HONOLULU, HAWAII 96813  
P.O. BOX 50144  
HONOLULU, HI 96850  
TELEPHONE: (808) 522-8020

## United States Senate

WASHINGTON, DC 20510-1103

April 21, 2006

COMMITTEES  
ARMED SERVICES  
ENERGY AND NATURAL RESOURCES  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
INDIAN AFFAIRS  
VETERANS' AFFAIRS

Ms. Linda Elento  
46-306 Ahui Nani Place  
Kaneohe, HI 96744-4054

Dear Ms. Elento:

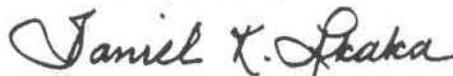
Thank you for your inquiry regarding Part C (infants and toddlers with disabilities) of the Individuals with Disabilities Education Improvement Act (P.L. 108-446).

As you know, P.L. 108-446 authorizes IDEA Part C grants to states for the continuation of early intervention services leading to programs under Section 619, Part B. During drafting of the legislation, parents noted that it was undesirable to change providers when transitioning from Part C services to Part B services. To accommodate parents' concerns, Congress responded by including the new Part C grants in the Act. The new policy provides state flexibility for a seamless zero to five program that ensures special needs children receive consistent services at a developmentally critical age.

In addition, the new Part C grants require an Individualized Family Services Plan to include transition services that acknowledge the need to help children move onto elementary education. These services also recognize the possibility – and in some cases, the goal – that children will no longer need services. More information on special education programs is available on the U.S. Department of Education's Web site: <http://www.ed.gov/policy/special/guid/idea/idea2004.html>.

Once again, mahalo for contacting me.

Aloha pumehana,



DANIEL K. AKAKA  
U.S. Senator