

Date: 04/01/2011

Committee: House Legislative
Management

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Resolution: HCR 034(hscr609)/HR29(hscr608) REQUESTING A FINANCIAL AND MANAGEMENT AUDIT OF THE DEPARTMENT OF EDUCATION.

Purpose of Resolution: Requesting a Financial and Management Audit of the Department of Education.

Department's Position: The Department has no position on HCR 034(hscr609) / HR29(hscr608). However, if it is passed, the Department will support this decision and assist the Auditor by providing all information required to perform this audit.

1. OMB Circular A-133 requires the Department to have a single audit performed each year. Since FY 1992, DAGS has contracted the Departments annual financial and single audits at a cost of \$300,000 per year. For the FY 2010 thru 2012, the State Auditor's Office contracted the auditors for the Department and the cost is currently \$365,000 per year.
2. HRS 40-83 requires that "the comptroller shall cause to be examined and audited books of accounts kept by any public school in connection with school fees and all other moneys collected by these schools." Since 2001, over 377 Local School Fund Audits (LSF) have been performed by DAGS Audit Division and the Department's Internal Audit Office.
3. The Department continues to have numerous audits and reviews performed from Federal as well as State agencies. Some of these include the over 73 audits since 1984 by the State Auditor, over 25

program and fiscal management evaluations of the Office of Hawaii Child Nutrition programs by the Western Regional Office of the USDA, numerous audits of the USDOE on various federal programs in OCISS (Office of Curriculum, Instruction and Student Support), and over 159 program and fiscal evaluations performed by the Systems Accountability Office, System Planning and Improvement Section, as directed by the Board of Education.

4. The Department has always welcomed independent audits by the State Auditor. As evidenced by the DOE's written responses to the latest round of audit reports, DOE leadership has shown its commitment to promoting excellence in Hawaii's public school system and has advocated that independent audits are key components of accountability and public transparency.

10-028



HAWAII DISABILITY RIGHTS CENTER

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THE HOUSE OF REPRESENTATIVES THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2011

Committee on Legislative Management Testimony in Support of HR 29/HCR34 Requesting A Financial And Management Audit of the Department of Education

**Friday, April 1, 2011, 2:00 P.M.
Conference Room 423**

Chair Yamashita and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in support of these measures.

The purpose of these Resolutions is to request that the Legislative Auditor perform a financial and management audit of the Department of Education.

We strongly support this effort and request that the audit be expanded to encompass the special education programs of the DOE. Our experience with them has been abysmal.

In general, Hawaii ranks at the bottom of the country in terms of the quality and quantity of its special education. It ends secondary education and special education earlier than 48 states and denies meaningful vocational training for older students. Its special education achievement levels rank 49th among the states. Hawaii ranks third per capita in the number of special education due process cases filed.

As has been the habit of state government in Hawaii, it frequently requires court action to force the appropriate corrective action that the law requires. Such was the case with the Felix consent decree. And, unfortunately, as is also the pattern, as soon as the

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consent decrees are lifted or their timeline has passed, the state retreats from its commitments and "backslides" into failure. As has been documented recently in the Star Advertiser, that is exactly what has occurred with regard to the Felix consent decree.

The state's "post Felix decree" efforts have been so poor that if it was sufficiently appropriate for a federal court to have oversight over the special education system for so many years, it certainly is appropriate for the Legislative Auditor to examine where we are now in terms of the state's efforts to provide federally required education to its most vulnerable population. The cost of the DOE's continued resistance to offering a free appropriate public education to students with disabilities has been enormous over the years (Mainland placements, attorney's fees, and other litigation expenses), and the Auditor should report to the Legislature on the matter.

Thank you for the opportunity to testify in support of these measures.

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Teresa Chao Ocampo

Honolulu, HI 96817

Committee on Legislative Management

Friday, April 1, 2011

To: Rep. Kyle T. Yamashita, Chair
Rep. James Kunane Tokioka, Vice Chair

From: Teresa Chao Ocampo

Re: Testimony in SUPPORT of HCR 34 and HCR 29 -A Financial and
Managerial Audit of the Department of Education
Conference Room 423 at 2pm

As a taxpayer and a parent of a child who received special education services from the DOE, I have witnessed and documented fraudulent billing, forgery and the falsification of educational documents by various DOE personnel including their contracted providers, local level and state level administration.

In 2007, I raised these issues in writing with the former principal of Kaiulani Elementary School as well as the former Superintendent, Ms. Pat Hamamoto. Both individuals assured me that an investigation would take place and that I would be informed of their findings.

After 12 months without an answer, I submitted a formally written 229 paged complaint to the Department of Education's Complaint Management Office in 2008. Again, both individuals continued to assure me that an investigation was taking place.

After approximately 24 months in all and two OIP requests in 2009 both principal and the Superintendent admitted that NO formal investigation took place despite the documents included in my written complaint showing fraud, forgery, misbilling and overbilling the state for services that were not provided by the DOE's contracted provider. These documents were produced from their own providers and DOE administration.

Nothing came out of this charade despite the criminal activities that took place. Although I support HCR 34 and HCR 29, this situation demonstrates that a superficial managerial audit will not show where the true fraud takes place. In addition, a financial audit must be specific enough to

investigate the various departments at the school and district levels since parents have been told that monies for special education services for any individual child enrolled in a public school are allocated and authorized by the District. In addition, it is the District level Educational Specialists who serve as the DOE's payer to parents or private schools for reimbursement of private placements.

It is because of the DOE's fiscal irresponsibility and nonchalance that I support HCR 34 and HCR 29.

I have grave concerns with a \$2.2 billion dollar state agency such as the Department of Education that has not had a comprehensive audit since the 1970's.

Although the DOE testified in an informational briefing on February 23, 2011 regarding the "numerous" audits that have been conducted by various private and state agencies, there is a difference between a financial audit and a managerial audit.

I urge you to request a financial audit especially in the Special Education Department, under the SPED Administrator, as well as ALL District level administrations in order to specifically identify a money trail for all types of federal funds received from the government.

Federal funds such as IDEA Part B grants, IDEA Part C grants, Title 1 grants, stabilization funds, and rehabilitative services and disability grants all are allocated differently. As, for example, the DOE continues to interchangeably use "paraprofessionals under Title 1" and "DOE educational assistants" it becomes more difficult to separate the roles of these providers in the classroom. They have varying educational backgrounds, training and service responsibilities which distinguish them from the funds from which they are paid. The money trail becomes confusing as do their roles in the classroom.

On a grander scheme of things:

How did the DOE spend the \$37,941,233 IDEA FY 2008 Part B Grants?
How did the DOE spend the \$39,680,790 IDEA FY 2009 Part B Grants?
How did the DOE spend the \$39,925,269 ARRA grants they received on 2/17/09?

If in 2009 ARRA funds were used to pay for contracted providers such as TIFFE, HBH, Nurse Finders, or Ala Kai Ne Keiki, who provide skills trainer services and Behavioral services (BISS) to children under IDEA, then what

happened to the money that was previously allocated to pay for these services when it was decided earlier in the biannual budget 2009-2011? That should have been extra but special education services through June 2009 were still eliminated or systematically reduced throughout the Districts.

How did the DOE spend this \$117,547,292 that they received for FY2008 and FY 2009 from the federal government for our children receiving special education?

In February 2009, in her Procurement Audit, Parts I and Part II, Marion Higa, State Auditor, reported potential examples of hundreds of millions of dollars of fraud, waste, mismanagement and corruption. As the Chief Procurement Officer, the former Superintendent, Pat Hamamoto, pledged to turn over any information to the Criminal Division of the Attorney General's Office. Despite the severity of the allegations against the DOE's Office of School of Facilities and Support, the AG has never publicly made any announcement and ironically, Ms. Hamamoto suddenly resigned in December 2009.

If checks and balances were properly in place, would the DOE have experienced such waste and fiscal mismanagement? In addition, could the furloughs been prevented? Why didn't the legislature seek any accountability from the former Superintendent or the AG's office? Why should the taxpayers accept such irresponsibility and then be required to pay additional taxes to make up for the state's subsequent budgetary shortfalls?

Recently, the DOE announced that they requested for extensions for their Race To The Top educational reform programs. Again, it appears that the same excuse is that they do not have the money, despite the fact that they developed the program and was awarded \$75 million dollars to execute reform. What happens to that \$75 million dollars as the DOE laments its lack of funds this year? Will it be available for next year or will that money just disappear into thin air? Again, who will make the DOE accountable for the RTTT funds? I predict this will be another money grab and the DOE will never execute the reform program as ambitiously presented in their application.

As a taxpayer and parent, I demand that the DOE under go a comprehensive audit detailing all of their expenditures especially in the Special Education Department and its federal funds. There is nothing prudent about fraud, waste, misappropriated funds and unaccounted

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funds which if properly maintained could provide the services that our children need for an appropriate education under federal law.

Thank you for this opportunity to testify.

Sincerely,
Teresa Chao Ocampo

(signature on file)

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HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

House of Representatives Committee on Legislative Management
Testimony in support of HR29/HCR34

Aloha Chair Yamashita, Vice Chair Tokioka, and Members of the Committee:

I would like to testify in strong support of HR29/HCR34. As a teacher for the DOE for the past six years, I know first hand that something is clearly wrong with the way funds are allocated and distributed in the DOE. It has been frustrating and disheartening to work in a system where very little of the money appropriated for education actually reaches the student in the form of quality teachers and classroom resources. The audit of the DOE should not only examine how funds are used at the administration level, but also at the district and school level.

When I first began teaching, I spent several thousand dollars of my own money to purchase supplies and curriculum materials for my classroom. I was given textbooks and computers that were older than my students, and yet my department was given money to purchase excess construction paper and white board pens. The English and Math departments bought several rounds of new textbooks, only for much of the new material to sit in storage rooms. Even more alarmingly, for three years, the hundreds of thousands of Title I funds that my school received went to pay an outside private consultant for services and hundreds of new computers, but our test scores still did not make AYP. At the end of the school year, there were a few times where I was urged to spend "leftover" money on supplies otherwise the money would be returned to the state or federal government.

The use of the funds our school received was not just determined by the principal, but by policies created by the Superintendent, Board of Education, and Complex Area Superintendents. Rather than set policies that limit the use of hundreds of thousands of dollars to purchasing supplies which are not needed, or dictates that new programs be purchased or programs be abandoned without collecting data to determine their effectiveness, and ultimately spends more money on the newest "fad" in the private educational sector, the DOE should be paying for quality teachers in the classrooms and reducing class size.

In reading the general yearly audit reports by the State Auditor, it is unclear as to whether there is mismanagement of funds at the school, district, or department level as these are purely financial audits that examine the overall budget and spending. However, one several of the State Auditor's reports criticized the department for not being able to implement an effective system of accountability. In 2003, the Auditor found that the planning, programming, and budgeting (PPB) system was "not working as intended" (Higa, 2003, p. 7). A major problem was with the DOE's lack of accountability (Higa, 2003, p. 7).

The specific concern of how the DOE monitors procurement or purchases within the department came up in the State Auditor's report in February 2009. The Auditor's 2009 report states that the DOE's officials "cannot assure the Legislature that their new responsibilities and

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powers have indeed come with accountability” (Higa, 2009, p. 21). The Auditor and Grant Thornton, a contracted firm, found that the DOE had not been monitoring procurement and there were in fact “numerous instances of non-compliance and violations of procurement rules and regulations” and even “potential fraud” (Higa, 2009, p. 21). The report goes on to say that the reason for the multiple violations stemmed from a “lack of leadership and controls” which in turn “permitted a culture of indifference toward procurement” and “unconcern for procurement rules” (Higa, 2009, p. 22).

Procurement accountability was not an issue until the passage of Act 51. Superintendent Patricia Hamamoto addressed the Legislature in 2004, calling for a “transformation of the system, including giving the department the resources and authority to carry out its capital repair and maintenance project” by “de-linking” the DOE from other state agencies such as the Department of Accounting and General Services (DAGS) (Higa, 2009, p. 6). The resulting Act 51, *Hawai‘i Reinventing Education Act of 2004*, “empowered” the DOE to “manage its own procurement of goods and services” (Higa, 2009, p. 7). Hamamoto “promised full accountability” (Higa, 2009, p. 22), but did not develop clear policies or controls regarding procurement, and rather delegated the responsibilities of overseeing procurement down the line to the point where “individuals and staff” were allowed to regulate their own purchases (Higa, 2009, p. 22).

Without proper policies in place, DOE employees were found to have been making purchases that were potentially unethical and not necessarily in accordance with the budget’s specific purposes. When we ask whether or not or how much of our taxpayer dollars actually reaches the student in the way it was intended, it seems that the DOE cannot yet provide us with answers. The Auditor’s report generated “much confusion” and “dissent within the department over proper procurement policies and procedures” (Higa, 2009, Overview). In her response to the Auditor’s report, Superintendent Hamamoto did not speak to the specific violations and recommendations either and rather assured the Auditor that the DOE would continue to comply with independent audits as required by Hawaii state law (2009).

As evident in recent State Auditor reports, the DOE still does not seem to have an effective way of making sure that the budget is executed as intended. Without a system of accountability that reaches all parts of the DOE, from the Board of Education to individual school teachers, we may never know exactly how much of the money paid by citizens will directly impact the students. I believe that a full audit of the DOE is the first step in holding educators at all levels of the system accountable for using state funds in the most ethical and effective way to benefit the education of Hawai‘i’s children.

Again, I strongly support HR29/HCR34. Thank you for the opportunity to testify.

Respectfully submitted,
Cherilyn Inouye



References

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Amy Luke

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 1:14 PM
To: LMGtestimony
Cc: [REDACTED]
Subject: Testimony for HCR34 on 4/1/2011 2:00:00 PM

Testimony for LMG 4/1/2011 2:00:00 PM HCR34

Conference room: 423
Testifier position: support
Testifier will be present: No
Submitted by: Lee McIntosh
Organization: Individual
Address:
Phone:
E-mail: [REDACTED]
Submitted on: 3/31/2011

Comments:

Mr. Chair and Members of the Committee on Legislative Management:

Aloha, my name is Lee McIntosh. I live in Kau on the Big Island. I support HCR 34, which audits the DOE. An audit will help identify waste and fraud that can be eliminated to reduce the cost of public education to tax payers. I also encourage the committee to amend HCR 34 to include a comprehensive audit of the DOE. Thank you for the opportunity to testify on HCR 34.

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Amy Luke

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 1:59 PM
To: LMGtestimony
Cc: [REDACTED]
Subject: Testimony for HR29 on 4/1/2011 2:00:00 PM

Testimony for LMG 4/1/2011 2:00:00 PM HR29

Conference room: 423
Testifier position: support
Testifier will be present: No
Submitted by: Lee McIntosh
Organization: Individual
Address:
Phone:
E-mail: [REDACTED]
Submitted on: 3/31/2011

Comments:

Mr. Chair and Members of the Committee on Legislative Management:

Aloha, my name is Lee McIntosh. I live in Kau on the Big Island. I support HR 29, which audits the DOE. An audit will help identify waste and fraud that can be eliminated to reduce the cost of public education to tax payers. I also encourage the committee to amend HR 29 to include a comprehensive audit of the DOE. Thank you for the opportunity to testify on HR 29.

Amy Luke

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 5:21 PM
To: LMGtestimony
Cc: [REDACTED]
Subject: Testimony for HR29 on 4/1/2011 2:00:00 PM

Testimony for LMG 4/1/2011 2:00:00 PM HR29

Conference room: 423
Testifier position: support
Testifier will be present: No
Submitted by: gregory swartz
Organization: Individual
Address:
Phone:
E-mail: [REDACTED]
Submitted on: 3/31/2011

Comments:

While the Auditor usually seems to get carried away with her sharp criticism and aggressive language, audits are designed to be a useful management tool and should be welcomed, not feared and avoided. Instead of looking at wrongdoings, we need to look at how to provide services more efficiently and effectively and thus, cheaper. That is the function of audits.