



SEAC **11-12 Annual Report** **Appendices**

A. Member Roster

B. Testimony to the Board of Education

C. Testimony to the Hawaii Legislature

D. Other Correspondence

E. SEAC Brochure



Appendix A

SPECIAL EDUCATION ADVISORY COUNCIL 2011-12 MEMBER ROSTER

Ms. Ivalee Sinclair, Chair	Individual with a Disability/CCCO Representative
Ms. Martha Guinan, Vice Chair	University Representative, Parent - Central District
Ms. Brendelyn Ancheta	Parent - Kauai District
Ms. Cassandra Bennett	Representative of Students Who Are Homeless
Ms. Jyo Bridgewater	Representative of Hawaii Assoc. of Independent Schools
Ms. Deborah Cheeseman	Special Education Teacher, HSTA Rep
Ms. Annette Cooper	Parent - Central District
Ms. Phyllis DeKok	Parent - Hawaii District
Ms. Debra Farmer	Special Education Section
Ms. Gabriele Finn	Parent - Windward District
Ms. Martha Guinan	University Representative, Parent - Central District
Mr. Henry Hashimoto	Community Representative
Ms. Tami Ho	Parent - Windward District
Ms. Barbara Ioli	Parent - Leeward District
Ms. Mona Izumoto	Early Intervention Section, DOH
Ms. Deborah Kobayakawa	Parent Training and Information Center
Ms. Bernadette Lane	Child Welfare Branch, DHS
Ms. Shanelle Lum	Parent - Leeward District
Ms. Eleanor MacDonald	Division of Vocational Rehabilitation, DHS
Ms. Rachel Matsunobu	Parent- Maui District
Ms. Dale Matsuura	Special Education Teacher - HSTA Rep
Dr. Jeff Okamoto	Developmental Disabilities Division
Ms. Stacey Oshio	Principal - Olomana School
Ms. Barbara Pretty	Resource Teacher - Windward District
Ms. Kau'i Rezentes	Parent - Leeward District, Early Intervention
Ms. Melissa Rosen	Charter School Representative
Dr. Patricia Sheehey	University of Hawaii Representative
Dr. Dan Ulrich	CAMHD Representative
Ms. Cari White	Department of Public Safety
Dr. Robert Campbell	Liaison to the Superintendent
Ms. Susan Rocco	Staff to SEAC
Ms. Jan Tateishi	Staff to SEAC



Appendix B

Testimony to the Board of Education

- 1) Testimony to the Committee on Student Achievement dated May 15, 2012 re: a proposal to amend Chapter 60 to establish the process for monitoring the progress of special education students in private placements at public expense



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Special Education Advisory Council

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May 15, 2012

**Special Education
Advisory Council**

Ms. Ivalee Sinclair, *Chair*
Ms. Martha Guinan, *Vice
Chair*

Ms. Brendelyn Ancheta
Ms. Cassandra Bennett
Ms. Jyo Bridgewater
Mr. Robert Campbell,
Liaison to the Superintendent
Ms. Deborah Cheeseman
Ms. Annette Cooper
Ms. Phyllis DeKok
Ms. Gabriele Finn
Ms. Tami Ho
Ms. Barbara Ioli
Ms. Mona Izumoto
Ms. Deborah Kobayakawa
Ms. Bernadette Lane
Ms. Pina Lemusu
Ms. Shanelle Lum
Ms. Rachel Matsunobu
Ms. Dale Matsuura
Ms. Stacey Oshio
Ms. Barbara Pretty
Ms. Kau'i Rezentes
Ms. Melissa Rosen
Dr. Patricia Sheehey
Mr. Mike Tamanaha
Dr. Daniel Ulrich
Ms. Cari White

Jan Tateishi, Staff
Susan Rocco, Staff

Cheryl Ka'uhane Lupenui, Chairperson
Committee on Student Achievement
Board of Education
1390 Miller Street
Honolulu, HI 96813

Dear Chair Lupenui and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under Part B of the Individuals with Disabilities Education Act (IDEA), appreciates this opportunity to support the Department's recommendation to amend Chapter 60 in order to establish the process for its monitoring of the private placement of special education students at public expense.

SEAC was active in the drafting of Chapter 60, and we have also been involved in efforts over the last four years to improve monitoring of students who are placed in private educational settings at public expense. The 2008 Legislature established a Task Force on Private School Placements which I chaired, and we were proactive in offering amendments to the 2011 legislation that became Act 128 and Act 129-- the legal basis for amending Chapter 60. SEAC also previewed a draft of the offered amendments in September 2011 and submitted comments to the Department for consideration.

SEAC believes these new rules set standards for consistency in the monitoring of private school students in publicly funded placements. They also allow Hawaii to join the 49 other states in creating standards of certification for private schools and facilities to ensure the appropriateness and benefit of services provided to students with disabilities at public expense.

While SEAC supports the overall intent of this rule change, we do have some specific comments to offer on the following subsections of §8-60-30:

- §8-60-30 (i)

In the draft of the rules that SEAC reviewed in September 2011, the Department expressed its intent to conduct state level monitoring of private schools and facilities by creating a State Monitoring Team.



- **§8-60-30 (i) (cont.)**
SEAC and other community stakeholders suggested that this team consist of three members:
 - o One member with expertise regarding federal, state and county laws, rules, regulations and ordinances, including, but not limited to, health and safety;
 - o One member with knowledge of the CCSS and how IEP goals are tied to the standards; and
 - o One member from the Hawaii Association of Independent Schools who has expertise in the accreditation process.

- **§8-60-30 (o)**
SEAC is unsure of the legal basis for the refusal to accept high school credits for any coursework completed by a student with a disability at a nonpublic school or placement. This piece of the rule was not part of Act 128 or 129. The Department is requiring the nonpublic school to align the student's program with the Common Core Student Standards, so SEAC questions why credits completed following CCSS would not be acceptable.

- **§8-60-30 (p)**
In this subsection, the Department exempts schools in good standing with HAIS from many of the monitoring requirements. Since accredited schools also include schools accredited by WASC, NAEYC and NECPA, SEAC believes it would appear more consistent to apply this exemption to all accredited entities.

Thank you for the opportunity to provide testimony on these draft rules. If you have any questions, I would be happy to answer them by phone or email.

Respectfully,

Ivalee Sinclair
Chair



Appendix C

Testimony to the Hawaii Legislature

(NOTE: Where multiple testimonies were submitted on the same measure, the final testimony was selected to highlight. Copies of individual testimonies are available upon request).

- 1) Testimony to the Senate Committees on Human Services and Health dated January 31, 2012 supporting **SB 2659** – RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND (use of emergency funds for services including respite, Developmental Disability Waiver, Healthy Start and Partnerships in Community Living)
- 2) Testimony to the House Committees on Education and Human Services dated February 3, 2012 supporting **HB 2519** - RELATING TO EARLY LEARNING (appropriation to DOE to support quality early childhood learning)
- 3) Testimony to the Senate Committees on Health and Commerce & Consumer Protection dated February 8, 2012 supporting **SB 2603** – RELATING TO INSURANCE (health insurance coverage for the diagnosis and treatment of Autism Spectrum Disorders)
- 4) Testimony to the Senate Committee on Education dated March 14 2012 supporting **HB 2513, HD1** - RELATING TO EDUCATION (providing greater flexibility to DOE to administer school health services)
- 5) Testimony to the House Committees on Education and Human Services dated March 14, 2012 supporting **SB 2545, SD2** – RELATING TO EDUCATION (creates an Executive Office on Early Learning with an advisory board to replace the Early Learning Council)
- 6) Testimony to the House Committee on Education dated March 23, 2012 strongly supporting **SCR 79** – REQUESTING THE BOARD OF EDUCATION AND DEPARTMENT OF EDUCATION TO COLLABORATE WITH PARENT ORGANIZATIONS TO ESTABLISH, IMPLEMENT, AND MONITOR STATEWIDE POLICIES FOR FAMILY ENGAGEMENT IN HAWAII'S PUBLIC SCHOOLS

(continued on the next page)

- 7) Testimony to the House Committee on Health dated April 2, 2012 supporting HR 137 - REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON REQUIRING INSURANCE COVERAGE FOR THE DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS
- 8) Testimony to the Senate Committee on Ways and Means dated April 2, 2012 offering positions on portions of HB 2012 HD1 - RELATING TO THE STATE BUDGET (supporting adult education, student transportation, and increases to Weighted Student Funding)
- 9) Testimony to the Senate Committee on Ways and Means dated April 3, 2012 supporting the intent of HB 304 HD1 (Proposed SD1) - RELATING TO STATE FINANCES (appropriating funds from the general fund to maintain funding for programs including DOH respite care, Healthy Start, DD Waiver Services, Preschool Developmental Screening, Preschool Open Doors and a training program to prevent bullying and cyber-bullying)
- 10) Testimony to the Senate Committees on Health and Commerce & Consumer Protection dated April 19, 2012 supporting HCR 177, HD2 - REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON REQUIRING INSURANCE COVERAGE FOR THE DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS



Appendix D

Other Correspondence

- 1) Letter to Governor Neil Abercrombie dated September 26, 2011 in support of Hawaii's application for a Race to the Top - Early Learning Challenge Grant
- 2) Recommendations on the ESEA Flexibility Waiver provided to Deputy Superintendent Ronn Nozoe by email on December 2, 2011 from the Coalition on Children with Special Needs (including SEAC)
- 3) Letter to Debra Farmer dated March 14, 2012 regarding recommendations on the Department's proposed procedural guidelines for Chapter 60
- 4) Letter to the Superintendent Dated June 20, 2012 requesting guidance and training to school personnel regarding criteria for determining a student's eligibility for Extended School Year (ESY) services



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September 26, 2011

**Special Education
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Ms. Martha Guinan, *Vice
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Ms. Brendelyn Ancheta
Ms. Sue Brown
Mr. Robert Campbell,
Liaison to the Superintendent
Ms. Deborah Cheeseman
Ms. Annette Cooper
Ms. Phyllis DeKok
Ms. Debra Farmer
Ms. Gabriele Finn
Dr. David Fray
Mr. Henry Hashimoto
Ms. Tami Ho
Ms. Barbara Ioli
Ms. Deborah Kobayakawa
Ms. Bernadette Lane
Ms. Pina Lemusu
Ms. Shanelle Lum
Ms. Rachel Matsunobu
Ms. Stacey Oshio
Ms. Barbara Pretty
Ms. Paula Quealy
Ms. Kau'i Rezendes
Ms. Melissa Rosen
Dr. Patricia Sheehy
Mr. Steven Vannatta
Ms. Cari White
Mr. Duane Yee

Jan Tateishi, Staff

The Honorable Neil Abercrombie
Governor, State of Hawaii
Executive Chambers, State Capitol
Honolulu, Hawaii 96813

Dear Governor Abercrombie,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under Part B of the Individuals with Disabilities Education Act (IDEA), would like to express our strong support of Hawaii's application to the U.S. Department of Education for **Race to the Top – Early Learning Challenge Grant**.

SEAC is made up of a diverse group of stakeholders with expertise on a wide variety of special education and related issues. Among our primary tasks are advising the Department of Education on the unmet needs of students with disabilities and contributing to the review of data and improvement activities around twenty key indicators as part of the Annual Performance Report process. Three of these indicators focus on preschool children with disabilities—preschool outcomes, least restrictive environments for 3-5 year olds and timely transitions from early intervention to preschool.

Hawaii's Early Learning Challenge application addresses the current scarcity of inclusive preschool educational placements for children with disabilities and other children at high risk of learning difficulties. It does so, in part, by providing training and tools to quality early childhood education programs, so that they may be better able to include young children with disabilities and provide them with high quality supports. Additionally, the new Hawaii Early Learning and Development Standards (ELDS) the grant proposes to develop will cover a broader range of ages and abilities compared to current preschool standards, so that early childhood educators will have greater flexibility to meet the unique needs of students with disabilities or students who are at risk of disabilities.



Governor Neil Abercrombie
September 26, 2011
Page 2

As with Hawaii's earlier Race to the Top grant award, SEAC stands to be a ready partner in improving services to students with disabilities. We would be happy to assist in disseminating information to families and community members, providing input on grant activities, and advising the Department on policies or procedures needed to support the desired outcomes.

Respectfully,

Ivalee Sinclair
Chair

RECOMMENDATIONS TO RONN NOZOE RE: ESEA FLEXIBILITY
Offered by the Coalition for Students with Special Needs
December 2, 2011

PRINCIPLE 1: COLLEGE AND CAREER-READY EXPECTATIONS FOR ALL STUDENTS

- Transition to college and career-ready standards

Recommendation 1: Develop coursework and apprenticeship options for students who are not planning to pursue a 4-year college diploma that are relevant to their career goals and aligned with the standards.

- Develop high-quality assessments that measure student growth

Recommendation 2: Conduct an annual assessment of student achievement measuring the gains of the student using the student's score for the prior year. The student's score will follow the student and will be used for the measurement. If the child was not assessed in the prior year, the child will be assessed at the beginning of his/her school year to establish a baseline score. This requires reporting to track students and not just grade level performance.

Recommendation 3: Ensure that assessment tools adopted for the common core standards offer adequate accommodations to students with disabilities.

Recommendation 4: Consider the Stanford Diagnostic Tests for Mathematics and Reading as tools for special education student pre- and post- testing that can be administered by general education teachers.

Recommendation 5: Cut the proficiency gap in half for students with disabilities and other subgroups by SY14-15 by setting rigorous targets for growth.

Example:

Annual Target for Students with Disabilities Taking the HSA (Math)*

Baseline (10-11)	SY 11-12	SY 12-13	SY 13-14	SY 14-15
11%	15.2%	19.3%	23.4%	27.5%

* Annual target is derived by subtracting the baseline special education proficiency (11%) in Math from the proficiency score for all students (55%), dividing that number by 2 and further dividing the remainder by 5 to get the % of improvement needed to meet the goal each year.

Annual Target for Students with Disabilities Taking the HSA (Reading)**

Baseline (10-11)	SY 11-12	SY 12-13	SY 13-14	SY 14-15
17%	21.4%	25.5%	29.6%	33.7%

** Annual target is derived by subtracting the baseline special education proficiency

RECOMMENDATIONS TO RONN NOZOE RE: ESEA FLEXIBILITY (cont.)

(17%) in Reading from the proficiency score for all students (67%), dividing that number by 2 and further dividing the remainder by 5 to get the % of improvement needed to meet the goal each year.

PRINCIPLE 2 : STATE-DEVELOPED DIFFERENTIATED RECOGNITION, ACCOUNTABILITY AND SUPPORT

- **Build SEA, LEA and school capacity to improve student learning**

Recommendation 6: Demonstrate the implementation of Response to Intervention (RTI) and Universal Design for Learning (UDL) strategies in every classroom as verified by the school administrator during classroom observation. Build to an implementation rate of 100% by SY 14-15.

Recommendation 7: Set a clear definition of inclusion and emphasize moving students with disabilities into less restrictive settings with appropriate support.

Recommendation 8: Provide intensive learning programs during summer and intercession periods to enable all students with proficiency gaps to make additional progress on their academic goals.

Recommendation 9: Capitalize on the statutory requirement to extend instructional time for students to redesign the school day for maximum learning opportunities. Consider additional afterschool academic supports.

Recommendation 10: Work with technology providers to provide computers or tablets to enable students to enhance their learning at home, and partner with parents to provide the guidance and supervision necessary for positive outcomes.

Recommendation 11: Adopt the National PTA Standards for Family-School Partnerships to facilitate enhanced learning outcomes for students.

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

- **Develop and adopt guidelines for teacher and principal evaluation and support systems**

Recommendation 12: In partnership with SEAC, develop a Hawaii Administrator Self-Assessment on Special Education to ensure that administrators have an adequate knowledge base regarding special education law, strategies to address the academic and behavioral needs of students with disabilities, and the importance of engaging parents in the development and evaluation of individualized education programs.

Recommendation 13: Work with teacher preparation institutions in Hawaii to ensure that their pre-service curriculum for general education teachers includes RTI and UDL.

Recommendation 14: Include measures of behavioral achievement or progress for students with disabilities in teacher performance evaluations.



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March 14, 2012

**Special Education
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Ms. Cassandra Bennett
Ms. Jyo Bridgewater
Ms. Pam Buchanan
Mr. Robert Campbell,
Liaison to the Superintendent
Ms. Deborah Cheeseman
Ms. Annette Cooper
Ms. Phyllis DeKok
Ms. Gabriele Finn
Dr. David Fray
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Ms. Kau'i Rezendes
Ms. Melissa Rosen
Dr. Patricia Sheehey
Ms. Cari White

Jan Tateishi, Staff
Susan Rocco, Staff

Debra Farmer, Administrator
Hawaii Department of Education
Special Education Section
475 22nd Avenue, Room 108B
Honolulu, HI 96816

Dear Debbie,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under Part B of the Individuals with Disabilities Education Act (IDEA), appreciates this opportunity to provide the attached recommendations on your proposed procedural guidelines for Chapter 60.

As you know, SEAC was actively involved in the Chapter 60 Community Work Group that provided substantial input into the drafting of the Chapter 60 administrative rules. SEAC representatives also participated on two initiatives organized by the Department to draft guidelines, the first in 2008 and the second in 2009. Since that time, we have been eagerly awaiting the release of the guidelines to clear up confusion in the field and amongst parent groups over the proper implementation of the rules.

We would appreciate feedback in the near future on 1) the action you intend to take regarding our recommendations, and 2) the earliest date that the final guidelines will be released. SEAC is wholeheartedly looking forward to being active partners with the Department in training educators, parents and community stakeholders on these implementing guidelines to our special education rules.

Respectfully,

Ivalee Sinclair
Chair

cc: Joyce Bellino, Assistant Superintendent, OCISS
Ronn Nozoe, Deputy Superintendent

SEAC Recommendations for Proposed Chapter 60 Guidelines

1) Clarify in §8-60-2 (**Definitions**) that the parent requirements of “consent apply also to adult students who are representing their own educational interests in the IEP process.

2) Include the following guidelines (from Chapter 56) in §8-60-7 (**ESY Services**) to provide greater clarity to the field:

“In determining a student’s need for ESY services, the IEP must first consider the regression and recoupment measures of the student. This includes:

- the likelihood of a significant decline in functioning demonstrated by a decrease in previously learned skills that occurs as a result of an interruption in educational programming; and*
- limited or delayed ability to regain skills at the level demonstrated prior to the interruption of educational programming.*

In making ESY placement decisions, the IEP team must consider such factors that include, but are not limited to the following:

- the nature of the student’s disabling condition (i.e. requiring consistent, highly structured programs);*
- the severity of the disabling condition; and*
- the area of learning crucial to attaining the goal of self-sufficiency and independence from caregivers.”*

3) Provide more guidance under §8-60-17 (**Placements**) regarding infrequently occurring but complex placement decisions (for example, placements involving students who reside in one district but are placed in another district for programmatic reasons). If the Department chooses not to provide guidance on each possible placement scenario, the guidelines could provide users with a link to memos highlighting the proper procedures to follow in determining these placements.

4) State clearly under §8-60-45 (**IEP Team**) that students should be encouraged to participate in the IEP and must be invited to the meeting by age 14 and each subsequent year the student receives services. Because Hawaii retained the provision from IDEA 1997 that transition planning begin at 14, every effort should be made to involve the student by that age in planning for his/her future.

5) Add under §8-60-46 (f) (**Parent Participation – Parent copy of the student’s IEP**): “Each member of the IEP Team (including the parent) must be given a xeroxed copy of the draft IEP with agreed-upon changes at the conclusion of the meeting. This practice maintains transparency of the process, builds trust, and helps to ensure that there are no significant misunderstandings when the formal copy of the IEP is given to the parent within 10 days of the meeting.”

6) Add guidance regarding Prior Written Notice under §8-60-47 (c) (**When IEPs shall be in effect – Initial IEPs; provision of services**) and §8-60-48 (b) (**Development, review and revision of IEP – Review and revision of IEPs**). The guidance should

SEAC Recommendations for Proposed Chapter 60 Guidelines (continued)

6) state that because the IEP and resulting Prior Written Notice (PWN) document the Department's offer of FAPE, the PWN should include an implementation date for services.

7) Add guidance under §8-60-48 (2) D (**Development, review and revision of IEP – Consideration of special factors**). This rule calls for consideration of the communication needs of the student. Guidance is needed to clarify that some students with developmental disabilities who are not Deaf or Hard of Hearing may benefit from direct instruction in sign language.

8) Add guidance regarding the dissemination of “a concise summary of key findings” of all assessment data collected when conducting initial evaluations and re-evaluations (**Appendix B: Referral, Evaluation and Eligibility**). We recommend the following language: “Provide a copy of the summary of key findings to parents for review 48-72 hours prior to the eligibility meeting or re-evaluation meeting, so that they have an opportunity to absorb the findings, become better informed, and be prepared to participate in decision making and ask questions for clarification, as needed, when the team convenes.”

The summary must be clear enough to identify the baseline strengths and needs of the student upon which IEP goals and objectives are built. In addition to the summary, the guidelines should state that parents are also entitled to receive a copy of the results of each assessment, if requested.

9) Reinsert language from earlier versions of the guidelines under the eligibility criteria for Emotional Disability (**Appendix B: Referral, Evaluation and Eligibility**): The guidance states that the evidence of the disability occurring to “a marked degree” is observed or measured by “the frequency, duration or intensity of a student’s emotionally disturbed behavior in comparison to the behavior of his peers. This can be indicative of either degree or acuity or pervasiveness.” Previous drafts of the guidelines included the observation that the behavior is “outside of his/her cultural norms.” We believe that this is a critically important factor in determining “marked degree” and recommend that it be included. We also recommend removing the phrase “emotionally disturbed behavior” and replacing it with “behavior.”

10) Add guidance from earlier versions of the guidelines in **Appendix J – Discipline Chart**. Previously this appendix was called “Discipline Considerations.” It included essential guidance that is currently absent from the chart including:

- 1) addressing misconduct proactively with functional behavioral assessments and adjustments to the student’s programming;
- 2) recommending that teachers be trained in behavioral interventions;
- 3) guidance on working in partnership with parents over discipline issues;
- 4) clarification of what constitutes “count days” for suspension purposes; and
 - sample situations that give administrators more information about appropriate responses to misconduct.



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June 20, 2012

**Special Education
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Ms. Brendelyn Ancheta
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Kathryn Matayoshi
Superintendent
Department of Education
P. O. Box 2360
Honolulu, HI 96804

Dear Superintendent Matayoshi,

The Special Education Advisory Council (SEAC) requests that the Department consider providing clearer guidance and training to school personnel regarding the determination of extended school year (ESY) services for students with disabilities eligible for services under the Individuals with Disabilities Education Act (IDEA).

At the May 11, 2012 SEAC meeting there was a lot of discussion amongst members regarding reports from parents and advocates that the following ESY services requirements were not consistently or appropriately applied in IEP discussions of ESY eligibility:

Individualizing the type, amount and duration of services - §8-60-7 (3) (B)

Several concerns from parents were shared including a unilateral decision by an Autism Consulting Teacher that the IEP team must count "forward and backward" when determining which dates ESY services were to be provided to a student with Autism. Neither the school, nor the Autism Consulting Teacher could provide policy or procedural guidelines regarding this practice. IDEA and Chapter 60 both make clear that the Department may not unilaterally limit the type, amount, or duration of ESY services. Services must also be individualized, based on the unique needs of each student, and determined by the IEP team.

Denial of ESY based on eligibility category - §8-60-7 (3) (A)

The discussion of ESY issues at the May 11, 2012 SEAC meeting also brought up a number of examples of students who were denied ESY services, because the IEP team determined they did not have a significant disability. One member, who is a teacher, added that her district had provided training on ESY that stressed services cannot be solely based on severity of the disability but must also be tied to regression and

(continued)



Superintendent Matayoshi

June 20, 2012

Page 2

recoupment. The inference is that severity must be present for ESY services to be considered. While IDEA allow states flexibility in setting up criteria for ESY services, both IDEA and Chapter 60 clearly forbid limiting ESY services to particular categories of disability.

There appears to be a degree of confusion in the field, as well as inconsistency from school to school over IDEA's requirement that schools must consider ESY services for ALL students with disabilities and provide individualized ESY services to students who need them in order to receive a free appropriate public education (FAPE).

Previous Activities of SEAC Regarding Criteria/Determining Factors for ESY Services

SEAC has recognized the need for clear eligibility criteria for ESY services since 2007, when we first partnered with the Department in drafting Chapter 60 administrative rules. Our position has been that the following factors outlined in a previous rule (Chapter 56) provide clearer guidance to the field than the 2004 IDEA regulations alone:

- Nature of the disability
- Severity of the disability
- Degree of regression
- Recoupment (recovery time from regression)
- Areas of learning crucial to attaining the goal of self-sufficiency and independence from caregivers.

The Department decided not to include any of the above determining factors in the Chapter 60 rules, but assured SEAC and the Chapter 60 Community Work Group that these criteria would become part of the guidelines. It is SEAC's understanding that the final guidelines for Chapter 60 have yet to be released to the field (some two and a half years after the rule became effective). However, proposed guidelines were released for public comment in February of this year. These proposed guidelines did not offer the clarity that parents and teachers have requested, so SEAC provided testimony to the Special Education Section in mid-March recommending that the aforementioned criteria from Chapter 56 be included in the final guidelines. (See attached SEAC Guidelines Recommendations).

Subsequently, SEAC has learned of additional helpful criteria for determining the need for special education services beyond the school year resulting from various federal court decisions:

- Emerging skills (for example, being on the brink of learning to read), *Reusch v. Fountain (1994)*
- Breakthrough opportunities (where there is a window of opportunity for the student to learn certain skills), *JH v. Henrico County School Board (2003)*

(continued)



Superintendent Matayoshi
June 20, 2012
Page 3

- A need for related services only or in conjunction with specially designed instruction, *Lawyer v. Chesterfield County (1993)*
- Interfering stereotypic, ritualistic, aggressive or self-injurious behaviors that prevent the student from receiving some educational benefit from the program during the school year, *Reusch v. Fountain (1994)*
- Other special circumstances identified by the IEP team such as: the ability of the student to interact with other non-disabled students; the areas of the student's curriculum that need continuous attention; the student's vocational needs; or the availability of alternative resources, *Reusch v. Fountain (1994)*
- Educational benefit gained during the regular school year that is significantly jeopardized if the child is not provided with an educational program beyond the regular school year, *MM v. School District of Greenville County, South Carolina Board of Education (2002)*

SEAC has also found a very beneficial technical assistance resource document that was developed by the Virginia Department of Education: (http://www.doe.virginia.gov/special_ed/regulations/federal/extended_schoolyear_services.pdf).

Thank you for the consideration of our request. We are available to provide more information or assistance as needed, and we look forward to your response in time for the August 10th SEAC meeting, so that we can update members.

Sincerely,

Ivalee Sinclair
Chair

attachment

cc: Joyce Bellino, Assistant Superintendent, OCISS
Debra Farmer, Administrator, Special Education Section
Robert Campbell, Director of Special Education, Special Projects Office

Share Your Concerns

Meetings are open and public input is welcome. Up to 30 minutes of each meeting is set aside for individuals to comment on issues related to special education. Comments can be presented in person or mailed to the Council to be read by the Council Chairperson.

Individuals have up to five minutes to present their issue. The individual speaker will be asked to be factual and avoid using names of students or school staff.

If you have something to say to SEAC, here is some basic information :

DATE: 2nd Friday of the month
(except State holidays)

TIME: 9:00 a.m. - noon
(Public Comment Period is
11:30 a.m. - noon)

PLACE: 919 Ala Moana Blvd.
(call ahead for the room)

You may receive an agenda and minutes of our meetings by contacting us, or you may view them electronically on the SPIN website:
<http://www.spinhawaii.org/SAP/sap.html>



SPECIAL EDUCATION ADVISORY COUNCIL (SEAC)

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Other Resources:

Aloha Special Technology Access Center
(808) 532-5547 (V)(T) www.alohastac.org

Assistive Technology Resource Center
(808) 532-7110 (V)(T) www.atrc.org

Community Children's Council Office (CCCCO)
(808) 586-5363, (800) 437-8641 (V)

Developmental Disabilities Council
(808) 586-8100 (V) www.hiddc.org

Division of Vocational Rehabilitation (Oahu)
(808) 586-5167 (V)(T) www.hawaii.gov/dhs

Hawaii Disability Rights Center
(808) 949-2922 (V)(T) www.hawaiidisabilityrights.org

Hawaii Families as Allies
(808) 487-8785 (V) www.hfaa.net

Hiloopa'a Family to Family Health Info Center
(808) 791-3467 www.hilopaa.org

Learning Disabilities Association of Hawaii
(808) 536-9684, (800) 533-9684 (V) www.ldahawaii.org

Mediation Center of the Pacific
(808) 521-6767 (V) www.mediatehawaii.org

Special Education Section (DOE)
(808) 203-5560 (V)(T)
<http://doe.k12.hi.us/specialeducation/index.htm>

Special Parent Information Network
(808) 586-8126 (V)(T) www.spinhawaii.org

(V) - voice (T) - TTY/TDD

SPECIAL EDUCATION ADVISORY COUNCIL (SEAC)



*Hawaii's Advisory Body on
Special Education Issues*

Revised February 2011

Appendix E

What is SEAC?

The Individuals with Disabilities Education Act (IDEA) requires that each state establish and maintain an advisory panel for the purpose of advising the State special education staff regarding the education of all eligible children with disabilities. In Hawaii that advisory panel is the **Special Education Advisory Council** or **SEAC**.

Our Vision

The Council believes in optimizing the educational achievement of every child through a strong public education system that is proactive and supportive of students, families and educators. To that end the Council will use its strength as a broad based constituency group to play an active and influential role in decisions affecting policies, programs and services.

Our Mission

The mission of the Council is to guide and assist the Hawaii Department of Education in fulfilling its responsibility to meet the individual needs of children with disabilities.

Functions of the Council

- To advise the Department of Education (DOE) of unmet needs in the education of students with disabilities
- To comment publicly on proposed rules and regulations by the DOE regarding the education of children with disabilities
- To advise the DOE in developing evaluations and reporting on data to the U.S. DOE
- To advise the DOE in developing corrective action plans
- To advise DOE in developing and implementing policies relating to the coordination of services for students with disabilities
- To monitor the implementation of activities and timetables pursuant to consent decrees or court orders
- To advise on the education of eligible students with disabilities who have been convicted as adults and incarcerated in adult prisons.

SEAC Membership

SEAC is made up of a diverse group of individuals with expertise on all aspects affecting special education and related issues. Each school district is represented. Our membership includes:

- ✓ parents and grandparents
- ✓ persons with disabilities
- ✓ teachers (from both special and general education)
- ✓ district and state school officials
- ✓ university professors
- ✓ juvenile and adult corrections program administrators
- ✓ folks from the Departments of Health and Human Services
- ✓ community folks
- ✓ private school representatives
- ✓ staff from the Parent, Training & Information Center (AWARE)
- ✓ representatives for children who are in foster care or who are homeless

