**SPECIAL EDUCATION ADVISORY COUNCIL**

**Minutes – May 12, 2023**

**9:00 a.m. – 12:00 p.m.**

**PRESENT:** Virginia Berenger, Rick Bunney,Shana Cruz, Deborah Cheeseman, Annette Cooper, Mark Disher, Martha Guinan, Mai Hall, Melissa Harper Osai, Amanda Kaahanui (staff), Helen Kaniho (liaison to the Superintendent), Tina King, Jennifer Leoiki-Drino, Cheryl Matthews, Paul Meng, Ikaika Olds (for Sara Alimoot), Chris Pelayo, Kiele Pennington, Kau‘i Rezentes, Susan Rocco (staff), Rosie Rowe, Debora Uyeda, Steven Vannatta, Lisa Vegas, Jasmine Williams, Susan Wood

**EXCUSED**: Lisa Garcia, Melissa Johnson, Dale Matsuura, Wendy Nakasone-Kalani

**ABSENT**: Kerry Iwashita

**GUESTS**:  Tierney Barcase, Willie Cadena, Verna Chinen, Chad Domingo, Sandy Jessmon, Jackie Jackson, Kapua Pickford, Amy Ruhaak

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| **TOPIC** | **DISCUSSION/ACTION** |
| **Call to Order/ Welcome** | Chair Martha Guinan welcomed everyone at 9:10 a.m. and asked Amanda Kaahanui to call the membership roll and invite guests to introduce themselves. |
| **Input from the Public** | Melissa Harper Osai shared a recent serious incidence of cyberbullying targeting her son by another student at Campbell High School.  Her son was in a general education bathroom unaccompanied by his paraprofessional when another student took a photo of him at the urinal with his pants around his ankles and later posted the photo to social media.  Melissa filed a police report and pressed charges against the perpetrator.  She also created a video which has gone viral and appeared on a television news broadcast to call attention to this injustice.  She is pushing for a change to Chapter 19 discipline rules to increase the penalties for bullying and has received the support of LDAH and other parents and parent-serving agencies to speak out against bullying (see announcements). |
| **Announcements** | 1. Rosie Rowe announced that Leadership in Disabilities and Achievement of Hawaii is holding a Stop Bullying parent forum on Saturday, May 13th at 10:00 a.m. at their 245 N. Kukui Street office.  LDAH is offering a Zoom link for neighbor island families who want to participate in the forum. 2. Amanda added that there is sign waving to stop bullying organized on Thursday May 18th at 5:00 p.m. at Queen’s West and on May 24th at 10:00 a.m. at the State Capitol.  Please reach out to LDAH for more information. 3. Willie Cadena announced that the CCCO has organized a cyber security presentation regarding cyberbullying for June 6th on Zoom.  SPIN recently sent out a flyer regarding the event. 4. Amanda announced that the SPIN Conference on April 22nd was a popular event and asked Susan to acknowledge some of the recipients of SPIN awards who are affiliated with SEAC—Melissa Harper Osai and Annie Kalama.  Two classroom teachers also received the Family Choice Award. |

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| **Procedures for Virtual Meetings** | Helen Kaniho provided feedback on two questions raised by Jasmine Williams at the April meeting:   1. Does the HIDOE have written rules, guidelines, or policies about online IEP meetings? 2. Is there a requirement for participants to have their cameras on and not just a name in the window to ensure that they are present?   Helen explained that IDEA has always allowed for alternate conferencing (by teleconference, online, etc.), and whatever arrangement is scheduled, the expectation is that IEP members will behave as if they are meeting in person.  Professional behavior and engagement call for keeping cameras on unless there are technical difficulties.  She is planning to put together guidelines to discuss at the next District Education Specialists (DES) meeting.  **Action:  Helen will share these guidelines with SEAC when they are available.**  In response to Helen’s report, Jasmine Williams brought up two other related issues:   1. In-person meetings provide the privacy of a conference room.  However, now that meetings are virtual, some classroom teachers attend the meeting from their classroom with students present.  This practice is inappropriate because students are not receiving instruction, and the confidentiality of the student with the IEP is compromised. 2. Similarly, IEP team members who attend the meeting with staff present in the room there are using jeopardize the student’s confidentiality when comments are overheard by others. |
| **Due Process Report for SY 21-22** | Susan Rocco reported on due process hearing requests, hearing decisions, written complaints and mediations for school year 2021-22.  History of SEAC reporting  SEAC made a commitment in 2005 to go beyond the IDEA requirement to review due process hearing decisions by creating an annual report that also includes written complaints, and mediations.  The aim is to encourage the increased utilization of informal dispute resolution options in order to spare families and schools the expense of formal disputes in terms of money and lost relationships.  The annual report helps to shed light on Hawaii’s utilization patterns over time and compared to other states and makes recommendations for consideration by HIDOE leadership.  Continuum of dispute resolution  SEAC adapted the CADRE Continuum into an updated graphic of the five stages of dispute resolution—prevention, disagreement, conflict, procedural safeguards and legal review—as they relate to available resources. |

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| **Due Process Report for SY 21-22** (cont.) | Due process hearing requests and decisions  In SY 21-22 there were 45 hearing requests, with 13 resulting in hearing decisions.  Data is only available for the posted hearing decisions which typically include multiple issues. The most  common include private placement, evaluation, and insufficient services.  Families prevailed in only 4 of the 13 decisions due to the large number of *pro se* cases where families are less likely to prevail.  Hawaii has more hearing requests that proceed to hearing than the national norm.  Written complaints  There were 24 written complaints filed in SY 21-22—a notable increase from previous years.  This is a positive trend in that the process is less costly and more timely than due process hearings.  However, with only 3 complaints containing findings of non-compliance by the school, families may be less satisfied with the outcome.  Mediations  Nine mediations were held in SY 21-22, resulting in 6 mediation agreements—a 66% agreement rate.  The number represents a greater utilization of mediation over the past decade; however, Hawaii’s rate is still less than the national average.  Mediation is considered an optimal dispute resolution by many because it often preserves the relationship between home and school.  Area of concern:  timeliness of hearing decisions  IDEA envisioned a quick resolution of disputes: 45 days from the request for hearing to the delivery of a hearing decision + 30 days for the resolution process = 75 days. Of the 13 hearings, only 3 were completed within the 75-day timeline.  A second timeliness issue is that hearing officers are taking a full month or more from the hearing date to write the decision and post it.  Area of concern:  availability and aﬀordability of plaintiﬀ attorneys  Of the 13 hearings only 5 were represented by a plaintiff attorney and 7 hearings had pro se representation.  Historically, families are at a distinct disadvantage without legal counsel, and they often fail to meet the burden of proof in the hearing.  Questions/comments from members and guests  C. I was told by 10 families on Maui that they would have filed a due process hearing request if they could have found an attorney.  Q.  Would it be possible to have representation from an attorney licensed in another state who could attend a virtual hearing to represent the student’s interests?  A. (Mark Disher) No, the plaintiff attorney must be licensed in Hawaii.  Hawaii law offers no reciprocity to attorneys from another state, and changing that law is very unlikely. |

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| **Due Process Report for SY 21-22** (cont.) | Questions/comments from members and guests (cont.)  Q. How often does the Hawaii Disability Rights Center take on special education due process cases? A. (Martha) HDRC can use discretion when taking on cases. (Susan R.) HDRC has a lot of lay advocates, but only one attorney and she was not represented in any of the 13 hearings in SY 21-22.  C. I reached out to HDRC twice in the last few years and was told they don't have the manpower to help.  C. I have gotten help from a lay advocate at Melissa at HDRC on three occasions.  C. On the military side, families can use JAG oﬃcers, but they are only available through the Army and Navy. They have only limited training in IDEA and may not be familiar with state laws, making the majority of them not fully equipped to handle these cases.  C. The Marine Corps in Hawaii onboarded an attorney in the last year. |
| **Annual Report Draft Recommendations** | Susan Wood asked members for their feedback the following six recommendations drafted to include in SEAC’s Annual Report for SY 22-23.  The recommendations include three suggestions from the current year's discussion and three repeated recommendations from last year’s report that have not been acted upon:   * Offer professional development for administrators utilizing integrated training teams. * Contracting with the Mediation Center of the Pacific to add IEP facilitation to mediation services so families and schools can reach early resolution of disputes. * Improve access to information on the HIDOE website by oﬀering key links and/or improving the website's search engine. * Ensure that teacher mediated distance learning is available throughout the state for students with disabilities who require this option to benefit from their education. * Partner with SEAC and key stakeholder groups to educate the field on how to encourage parent participation in the education of their children, including classroom observations and meaningful two-way communication. * Develop protocols to identify high risk students who are entering into the public school system after having been expelled from private school mid-year.  Provide individualized interim supports while eligibility determinations are underway.   Questions/comments from members and guests  Q. Could we add a recommendation regarding access to legal representation? A. No. It isn’t the responsibility of the HIDOE to ensure an adequate supply of plaintiff attorneys. |

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| **Annual Report Draft Recommendations** | Questions/comments from members and guests (cont.)  C. I have heard of an Ombudsman position in another state who encourages resolution of disputes and tries to help the parties avoid due process.  Q. Should we also include 504 students in the recommendations where appropriate?  A. Yes, that’s a good idea.  Q. Isn’t the Department supposed to provide a list of available attorneys to parents seeking representation?  The current list is not realistic.  Q. Wouldn’t it be appropriate to add a recommendation about expanding access to the least restrictive environment for preschool students? Since the pandemic, the Department has cancelled its agreement with Head Start to offer a blended preschool classroom on many school campuses. A. (Martha) Our annual report recommendations reflect topics that we have spent time discussing during the school year and have not seen progress on resolving the issue. Since we didn’t have an active conversation about preschool inclusion during the school year, we are not able to bring it up as a recommendation, but we could decide to choose preschool LRE as one of our focuses next year.  C. The state has committed to adding large number of public preschool classrooms by 2035.  C. I have tried to research if it is illegal in Hawaii to expel students from a pre-school environment, and I worry that there isn't a support system for preschoolers with mental health issues.  C. In August SEAC can set big buckets. Monitoring our pre-k situation might be a great bucket.  C. Bullying might be another priority.  C. I am concerned about the number of kids coming into the Hawaii Youth Correctional Facility with IEPs. Only 4 of our students do not have IEPs. I would like to know what the juvenile court judges are thinking. |
| **Membership Considerations** | Steven Vannatta offered the Membership Committee report regarding the election of officers and recommendations for nomination of new members.  Election of Officers for School Year 23-34  Having received no additional nominations of volunteers from members for new leader candidates, the committee nominates SEAC's current Chair and Vice Chair--Martha Guinan and Susan Wood to serve another year.  **Action: Martha Guinan and Susan Wood were elected unanimously.**  Nominations of new members  Steven explained the chart of SEAC's prospective membership for the coming year showing the need to fill two departmental vacancies--one for a representative of incarcerated adults who are |

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| **Membership Considerations** (cont.) | Nominations of new members (cont.)  eligible for IDEA and one to represent the interests of youth with disabilities in foster care.  Since it has been difficult to find a consistent representative from the Department of Public Safety, the Committee would like to explore with the possibility of having an educational specialist or state resource teacher from the Office of Student Support Services who works with this population fill this position. Additionally, SEAC needs to fill a parent vacancy due to the resignation of Paula Whitaker. At this time, the Committee would like the full Council's approval to nominate Kaili Murbach from Maui District to serve on SEAC. She served formerly for four years and was a great contributor to SEAC's work. Steven asked members to actively seek additional parent members who would embrace SEAC's Leading by Convening process to ensure a majority of members who are parents and persons with disabilities as required under IDEA. Priority will be given to parents from Honolulu District, parents of young children, and parents of children whose disability category is not currently represented.  **Action: Members voted in full agreement to nominate Kaili Murbach to** **Superintendent Hayashi for consideration of appointment for another three-year term on SEAC.** |
| **Review of Minutes from April 14, 2023** | Susan Wood offered some minor typographical corrections to the draft minutes.  **Action:  the minutes were approved as corrected.** |
| **Proposed Meeting Schedule for SY 23-24** | Steven Vannatta presented a tentative schedule of virtual meeting dates for the next school year. While the pattern is to select the 2nd Friday of the month from August to May, a few adjustments were needed because of school breaks and holidays. Several hybrid (in person and virtual) meetings are planned for November 17, February 9th and May 10th at the OSSS Annex at 475 22nd Avenue, Honolulu, HI 96816. |
| **Infographic Work Groups** | Vetting of a description of **IEP team members** to accompany the vetted infographic Jasmine Williams shared a draft document prepared by the work group which also consisted of Paul Meng, Cheryl Matthews, Rick Bunney, Mark Disher and Sandy Jessmon. The colors of the headings correspond to the colors on the infographic (available for viewing on the online member portal). Input is needed on two things:   * Whether a summary/conclusion is needed, and * Whether to use the term “child with a disability” or “student with a disability.”   Members and guests weighed in on the second issue and offered the following comments:   * Parents of a child with a disability is preferable because the main target of the infographic is the parent. |

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| **Infographic Work Groups** (cont.) | * Parents refer to their son or daughter as “my child” rather than “my student.” * In elementary school, “child” is appropriate. As students get older, they don’t want to be referred to as a child, so “student” might be more appropriate. * When my teenage daughter’s IEP team referred to her as a “child” it inferred limitations on her ability and capacity. An alternate term might be “scholar” to project a higher expectation. * IDEA uses the terminology “child with a disability.” * Can we say, “child or teen”? * An option would be to use both terms as they apply to various sections of the document. * Using the term “child” conveys the totality of the parent’s focus—not just academics. * I have a 17-year-old with Down Syndrome. I am working with a job coach working on independence for students with disabilities. To encourage parents to project empowerment, I recommend the term “scholar.” * I think “student” is a better option as it gives the student autonomy, especially as it relates to advocating for their needs in an IEP meeting. * My relationship with my son is as my child. He can refer to himself as he prefers. Student is also useful as the IEP team is an academic discussion. * I’m concerned about referring to the individual as a child, which conveys that his or her voice doesn’t carry equal weight. * For most parents of children with disabilities, they will respond to both terms—child and student—dependent on their age group. I suggest we use the term “youth.” * “Child” gives a sense of parental ownership and responsibility and takes ownership away from the child. “Student” places too much responsibility on the educators. I like “youth” as it is unbiased in terms of creating a collaborative environment. * If the document is for the beginning parent who doesn’t know what the IEP make-up is, then the use of “child” is appropriate. * By using both “child” and “student”, it may make the infographic useful to parents whose children are identified later in life. The infographic also serves as a reminder to school administrators that all these other role groups can be there, too. * The original intent of the infographic was to use simple language to help parents understand their role on the IEP team, and the central role they play. |

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| **Infographic Work Groups** (cont.) | **Action:  Each member will review the companion document and revisit the language for vetting at the August meeting.**  Finalizing the work of the remaining work groups.  Martha encouraged the active work groups to consider communicating with each other over the summer break in order to have ready any work that needs vetting by the full Council. Amanda offered her services along with Susan Rocco’s for any assistance needed. |
| **Presentation of Certificates of Appreciation & Special Acknowledgements** | Helen Kaniho passed out member Certificates of Appreciation signed by Superintendent Hayashi. Members who had exemplary attendance during the school year were also given small rewards by Amanda and Susan from SPIN |