**SPECIAL EDUCATION ADVISORY COUNCIL**

**Minutes – February 9, 2024**

**9:00 a.m. – 12:00 p.m.**

PRESENT: Kathie Awaya, Virginia Beringer, Mark Disher, Martha Guinan, Melissa Johnson, Amanda Kaahanui (staff to SEAC), Helen Kaniho (liaison to the Superintendent), Tina King, Jennifer Leoiki-Drino, April Lum (for Sara Alimoot), Cheryl Matthews, Paul Meng, Kaili Murbach, Wade Okuma (for Dale Matsuura), Susan Rocco (staff to SEAC), Rosie Rowe, Debora Uyeda, Steven Vannatta, Lisa Vegas, Jasmine Williams   
EXCUSED: Annette Cooper, Mai Hall, Wendy Nakasone-Kalani, Chris Pelayo, Kiele Pennington, Susan Wood  
ABSENT: Deborah Cheeseman, Shana Cruz, Kau’i Rezentes, Scott Shimabukuro   
GUESTS: Michelle Arakawa, Tierney Barcarse, Will Carlson, Linda Elento, Nancy Gorman, Brian Hallett, Ken Kakesako, Michael McGushin, Christine Montague-Hicks, Lori Morimoto, Carolyn Sakata, Randy Scoville, Herbert Taitingfong, Brikena White, Angela Wong

|  |  |
| --- | --- |
| **TOPIC** | **DISCUSSION/ACTION** |
| **Welcome** | Chair Martha Guinan welcomed members and guests at 9:06 a.m. |
| **Roll Call/Introductions** | Amanda Kaahanui called the member roll and asked both members and guests to share which stakeholder group they are representing. |
| **Input from the Public** | Applied Behavioral Analysis Services  A parent from Windward district provided written and oral testimony on the several legislative items including the HIDOE Report to the Legislature regarding HB 2217 (see Attachment A).  Melissa Johnson shared input from parents in her support group on the following topics:   * Checks and balances   Parents want to know if there is a system of checks and balances to keep DOE administrators accountable. Feedback: (Brikena) We do not condone retaliation against parents who raise concerns, and Helen and I have an open-door policy to take the issue through the proper channels. If my office receives an anonymous complaint of a violation of FAPE, we will do an investigation, but the person who reports the issue anonymously will not know the results of the investigation. If parents submit a written complaint with their signature, I then have an obligation to report back to you.   * Administrators speaking negatively about parents to other personnel   These parents are experiencing bullying and intimidation from Maui administrators. It is hard for them to advocate for their child when new providers have already been influenced by negative feedback on the part of administrators towards parents.   * Mediation services   The consensus of several parents who have undergone mediation is that it is not effective, because |

SEAC Minutes

February 9, 2024

Page 2

|  |  |
| --- | --- |
| **Input from the Public** | * Mediation services (cont.)   because DOE representatives are not willing to compromise and expect the families to make all the concessions. An example is a situation where the parent is asking for inclusion for part of the day and the school says the teacher does not have enough experience or there is no money for a one-on-one support person. Feedback: (Helen) IDEA and Chapter 60 require mediation to be provided as part of the dispute resolution process, and both the Exceptional Support Branch and the Monitoring and Compliance Branch are working to increase the availability of mediation and have it seen as effective by both parties. (Brikena White) We do have to be mindful that mediation is a voluntary process. I will have a conversation with the Executive Director of the Mediation Center of the Pacific regarding your concerns.   * Lack of training of EAs and teachers   Some students with complex needs are placed in an inclusion classroom with an inexperienced teacher. Educational assistants are also lacking sufficient training to meet the students’ needs. A. (Helen) We are currently working on systematic professional development opportunities for educational assistants.   * Problems accessing records in transitioning from school to school   Parents whose children are transitioning to a new school, like middle school to high school, have been told when they ask for data from the sending school, that the receiving school doesn’t have access to those records. The lack of data is preventing discussions from happening.  Questions/comments from members and guests  Q. Does a student have to have a severe behavioral issue to qualify for applied behavior analysis services? (Helen) Students with significant communication challenges also qualify for ABA services, including a Functional Behavior Assessment. While there is not a specific written policy stating this, I am happy to meet with you [the testifier] to problem solve.  C. I was in an IEP meeting with a licensed behavior analyst (LBA) who said that DOE does have their own procedures policy on when ABA services can be applied or how you get them, and right now it’s only for significant aggressive behaviors. Many children with disabilities who are not aggressive can benefit from ABA services for toileting or feeding or other issues.  C. Issues that involve students with disabilities that don’t rise to the level of a violation of FAPE can also be brought up to the School Community Council. |

SEAC Minutes

February 9, 2024

Page 3

|  |  |
| --- | --- |
| **Input from the Public (cont.)** | Questions/comments from members and guests (cont.)  C. Parents who have concerns usually take them to their teacher, the school administrator, or the Complex Area Superintendent, but they can also call the District Educational Specialist. It’s important in any case that the complaint is made in sufficient detail for someone to address it.  C. Retaliation isn’t only a worry of parents. I had a service provider apologize for not speaking up on my son’s behalf at an IEP meeting, because they were worried it would cost them their job. |
| **Presentation on the HIDOE Budget** | Brian Hallett, Chief Financial Officer for the Department, reviewed briefing materials shared with legislators including three macro charts:   * General fund appropriations – the percentage of the state budget allocated for education has been declining for the last 15 years except for federal funding assistance during the pandemic. At the beginning of the period, HIDOE took up 27% of the budget but has since dropped to less than 20%. * Growth of general fund revenues and appropriations compared to HIDOE growth - state revenues grew by 120% over the 15 years, and the HIDOE appropriations grew by only 45%. * Appropriations by EDN – The portions of the budget that make up the administration has not increased over time. This contradicts the notion that the Department is top heavy. Hawaii has the smallest overhead of any state school district.   Brian quickly took members through the information on the [Department’s Supplemental Budget Materials](https://www.capitol.hawaii.gov/sessions/session2024/testimony/Info_Testimony_WAM-EDU_01-16-24_EDN.pdf). What Congress does this year will affect funding for next school year. The House of Representatives has yet to pass a budget bill which is worrisome, and their projected budget is flat, which with inflation means that the budget is declining. The Department’s [Supplemental Budget Request](https://www.hawaiipublicschools.org/DOE%20Forms/budget/Detailed%20Justifications%20BOE%2020231004.pdf) is trying to make up for the substantial shortfall from last year’s budget appropriation. With ESSER funding ending, help is needed to sustain programming. The supplemental budget request totals $198,151,265 million with nearly $16 million in additional funding sought for EDN 150 (special education). Line items include positions and resources for work-based learning, speech-language pathology services, ABA services and positions, educational psychologist positions, on on-line tools like Panorama. The Legislature has been willing to pay for basic needs but is less generous for instructional needs.  Questions/comments from members and guests  Q**.** What are the legislators looking at to meet the Maintenance of Effort requirement under IDEA? Would it be the EDN 150 expenditures from last year? A. Yes, basically, and I think we’re going to do all right there. What is missing is full funding or additional funds to build out the workforce—like school psychologists—and the online tools to help students, particularly in social emotional learning. |

SEAC Minutes

February 9, 2024

Page 4

|  |  |
| --- | --- |
| **Presentation on the HIDOE Budget (cont.)** | Questions/comments from members and guests  Q. Do you have any specific requests of SEAC in working to support the budget? A. Some legislators refer to the Department’s budget as a black hole. While we do have a big budget, we provide details on how the money is used and we have had good results, so it’s a good investment. We would appreciate SEAC reinforcing that message.  Q. Is there any data on school-based claiming? A. Not that I have with me today, but revenues are growing. When we get to claiming for administrative services, we should see larger increases. Historically those resources have been used to fill spending gaps like school nursing. |
| **Presentation on the HIDOE Legislative Priorities** | Ken Kakesako shared four of the six bills that the Department is prioritizing this session:   1. SB2072/ HB2577 – removing the COVID-19 reporting requirements 2. SB 3086/ HB 2397 – exempts Career and Technical Education goods and services from the State Procurement Code 3. SB 3089 /HB 2400 – closes a current loophole by revoking the teaching license of teachers who resign or retire in lieu of termination while under investigation for sexual harassment of a student 4. SB 3090 / HB 2401 - allows newly graduated students to be eligible for worker’s compensation during the summer following graduation while participating in Department sponsored work-based learning   Questions/comments from members and guests  Q. Regarding SB 3089, are you saying that a teacher who is under investigation for a sexual harassment of a student cannot resign, even if they have not been proven guilty yet? A. Yes. We want teachers who believe they are innocent to stay the course of the investigation, and teachers who are trying to leave the state before the investigation is completed so they can potentially find employment in another state to have their license revoked.  Q. Has the Department taken a position on the two bills related to dyslexia—the universal screening bill and the requirement for schools to use evidence-based curricula to teach reading that are proven to support students with dyslexia? Yes. We are in support of these bills and are recommending putting together a work group or task force to determine how screening can be done most effectively.  Q. Do you have a position on the bill which expedites the placement of students of military families transferring to Hawaii? A. We are in support of helping these students get enrolled while at the same time being sensitive to the concerns of principals that preferential enrollment is not offered to local students and allowing a military student to finish out a school year at one school after his family has moved into permanent |

SEAC Minutes

February 9, 2024

Page 5

|  |  |
| --- | --- |
| **Presentation on the HIDOE Legislative Priorities** | Questions/comments from members and guests (cont.)  housing out of district could make it difficult to find adequate placements for all students moving into the district.  Q. What actions is the Department taking to address the safety of educational workers who have been seriously threatened with harm by a parent and forced to seek a remedy on their own? A. We worked on this issue with SEAC two years ago when we tried to deter some of this behavior by making harassment a stricter offense. Unfortunately, we did not have the bill worded in such a way as to not alarm parents of special education students that they could be accused of harassment and face harsh penalties while advocating for their child. Since that time, we have been working with the Attorney General’s Office to see if there is a way we can help teachers through the process.  Q. In SB 3090, how are you defining a DOE sponsored work-based learning placement? A. Hawaii Revised Statutes already has a definition of a school approved work-based learning program. |
| **Review of Legislation Bills of Interest for SEAC Action** | Susan Rocco facilitated a review of [nine bills of interest identified by the SEAC Legislative Committee](http://seac-hawaii.org/wp-content/uploads/2024/02/LEGISLATIVE-BILLS-OF-INTEREST-TOP-10.docx) to help focus attention on which bills SEAC as a whole would like to support with testimony. After a summary by Susan and Jennifer Leoiki-Drino, a zoom poll was attempted but was unsuccessful.  Questions/comments from members and guests  Q. If HB 2712 passes and the reimbursement rate for ABA services under Medicaid increases, how does that impact families who want to get ABA outside of the school day? Right now, you cannot mix the two. If DOE knows that a child is receiving ABA services after school, they can say “well, you have home private services, and they can work on all those things. We don’t need to do that in the school.” And if the private ABA wants to come on campus and provide ABA services during the school day, that is also denied. So, if DOE provides ABA services during the school day and seeks Medicaid reimbursement, will that affect the child’s ability to receive services after school? A. (Susan) There is a distinction between ABA services that are identified in an IEP as required to help the child benefit from education and medically necessary services through your health insurance. The Department does not want to bring providers on campus that they don’t have contracts with and that they’re not directing to do IEP goals. So, families that want their child to be in a school setting may have a really difficult time finding those service hours from a private provider after school or on weekends.  A. (Helen) Any kind of Medicaid reimbursement that HIDOE does, whether medically necessary or educationally relevant, will not affect services through private insurance. Also, schools must provide FAPE, whether or not a student is receiving services outside the school system. |

SEAC Minutes

February 9, 2024

Page 6

|  |  |
| --- | --- |
| **Review of Legislation Bills of Interest for SEAC Action (cont.)** | Questions/comments from members and guests  C. There are also perceptions on what you call medically necessary and what is enough for the student to benefit from education. Schools may say, we don’t do toileting.  C. Literacy specialists have confirmed that the iReady is used a lot in Hawaii for screening, but it does not have a sensitivity to dyslexia, and children with dyslexia are being denied eligibility for special education services based on the iReady results.  C. HB 1655 requires that schools show how they are using a science-based structured literacy curriculum. Once this is in place, teachers must be trained on how to implement the curriculum with fidelity.  C. My son has severe dyslexia, and it has been very difficult getting support for his needs through the IEP, so I’m hoping that HB 1655 really focuses on the implementation of the interventions.  Q. Would the dyslexia screening be a stand-alone separate from IDEA evaluations? A. (Jennifer) Yes. It would be the initial step that could trigger an evaluation.  C. Parents have reported to me that when they tried to get dyslexia as part of the IEP discussion, they were told that dyslexia is not a part of the DSM-5.  C. Hawaii is one of only three states that does not have a dyslexia definition. By putting it under the Specific Learning Disability eligibility category in Hawaii there is a huge lack of understanding on the part of teachers of what dyslexia means.  **Action: Members will be sent a Google poll asking whether each of the nine bills should receive supportive testimony, opposing testimony or monitoring. The SEAC Legislative Committee will use the results of the poll to guide its testimony**. |
| **Updates from Maui** | Helen and Michael McGushin provided the following updates:   * The Department continues to prepare the Pulelehua campus. * In response to a question by SEAC members previously whether Lahaina students had returned to campuses after the wildfire, Helen reported that all students are accounted for. Most have returned to their schools, several moved out of state, some moved to other schools or islands. Michael added that while the numbers are less that pre-wildfire enrollments, it is understandable given the unstable housing situation.   Questions/comments from members and guests  C. Fatigue has really set in for families having to drive longer distances to deliver their children to schools outside of Lahaina. Q. What is being done to support them? A. The focus has been for both families and teachers to have access to as many mental health services as possible. We have also tried to provide activities |

SEAC Minutes

February 9, 2024

Page 7

|  |  |
| --- | --- |
| **Updates from Maui (cont.)** | Questions/comments from members and guests (cont.)  and outlets for teachers, like cooking clubs, so that they can take food home for dinner and not have to eat at the hotels. Housing instability and the commute can definitely be wearing.  Q. Would you be able to email us list of services or resources available to families? A. (Michael) I can reach out to the SBBH DES and ask for a list to share. |
| **Discussion of Data**  **Sources and Documentation Related to Bullying of Students with Disabilities** | Helen shared her realization that bullying is becoming a standing topic for discussion, and she is appreciative for the opportunity to try to work through these essential issues together about supporting students with IEPs.  Speak Now HIDOE  Helen researched the issue of what happens to bullying incidences that are reported on the student app called Speak Now HIDOE. The reports go directly to the principal as well as a designee in the Student Support Branch to ensure that the principal has addressed the reporting. Helen is waiting to hear whether the reports also go to the Complex Area Superintendent. The report is not memorialized anywhere at this point.  Office for Civil Rights  OCR’s Data Center collect data on bullying that occurs to students in a protected class, including disability. The center is just now collecting data from SY 21-22. Once it is received, it takes about 18 months to get posted on the Data Center website.  HYRBS  Susan R. reported on [Bullying Data from the Hawaii Youth Risk Behavior Survey](https://seac-hawaii.org/wp-content/uploads/2024/02/HYRBS-Data-Presentation.pdf) and credited Dr. Tonya Lowrey St. John from the University of Hawaii for providing guidance on where to find information and a possible solution to the lack of disability-specific bullying data.  Question/comments from members and guests  Q. Is there an option for students taking HYRBS to write their name on the survey? If there is a question regarding suicide tendencies, it would be a quicker way to get help to a student who identifies himself or herself. A. That’s a great question, but I think the survey must remain anonymous in the CDC guidelines. I can check on that.  **Action: Members voted to approach the Hawaii School Health Survey Committee to request that they include a question regarding disability status on the 2025 Hawaii Youth Risk Behavior Survey.** |
| **Educational Statutes, Administrative Rules, and Policies** | Susan R. walked members and guests through a table—[How to Search for Statutes, Administrative Rules and Policies Related to the Education of Hawaii Public School Students](https://seac-hawaii.org/wp-content/uploads/2024/02/statutes-rules-and-policies.pdf)—prepared by staff in response to a question posed by Kiele Pennington at the January SEAC meeting related to restraint policies. Susan and Amanda demonstrated how to search for statutes and policies on the Board of Education website. |

SEAC Minutes

February 9, 2024

Page 8

|  |  |
| --- | --- |
| **Review of Draft Minutes for the January 12, 2024 Meeting** | There were no corrections made to the draft minutes of January 12, 2024.  **Action: The minutes were approved as distributed.** |
| **Agenda Setting for the March 10, 2024 Meeting** | The following agenda items were suggested for the March meeting:   * Maui Updates * Data on Suspensions by Brikena White * Access to information when students transition from school to school * How DOE tracks who accesses a student’s records * Legislative update * More discussion on inclusive practices or bullying * Infographics * Mediation effectiveness, and * Update on ABA eligibility: aggressive behavior vs. significant behavior or communication deficits. |
| **Work Groups for Infographics and SEAC Vision on Positions vs. Interests** | Due to the short amount of time remaining, Martha deferred work group meetings to March. She announced that the work group on the Positions vs. Interests video is meeting on February 12th at noon and encouraged anyone who wishes to join that meeting to contact Steven Vannatta at [steven.vannatta@k12.hi.us](mailto:steven.vannatta@k12.hi.us). She also suggested that members revisit the drafts of the two infographics on reporting bullying incidences found in the SEAC website member portal. |
| **Announcements** | Amanda made the following announcements:  The SPIN Conference will be on April 6th at UH Manoa, and there are still a number of parent airfares available. Registration, airfare scholarship, and display table forms are available at <https://spinconference.org>. SEAC members can attend free of charge and are encouraged to volunteer for a shift at the SEAC table.  The Footsteps to Transition Fair was successfully held at Ewa Makai Middle on February 3rd.  Maui is holding a Footsteps to Transition Fair the evening of April 11th at Maui High School, and folks can register at <https://footstepstotransition.weebly.com/maui-footsteps.html>  SPIN is taking nominations for the three SPIN awards—Parent of the Year, Professional of the Year and Parent Choice. The nomination form is on the conference website. |

**Attachment A**

**Written Testimony for February 9, 2024 SEAC Meeting**

**From:** L Elento <ilikered3@rocketmail.com>  
**Sent:** Friday, February 9, 2024 12:00 AM  
**To:** DOH.DCAB, SPIN -- Special Parent Information Network <DOH.SPINSpecialParentInformationNetwork.DCAB@doh.hawaii.gov>  
**Subject:**  SEAC mtg letter

Aloha, Thank you for the opportunity to provide three questions and comments below to SEAC members and guests.

1. The DOE’s report to the Legislature includes proposed funding for Applied Behavior Analysis with a brief description. See attachment. 

Will SEAC consider working with the DOE to communicate what is simply written in the description: Applied Behavior Analysis (ABA) …  to support students who have significant behavioral and/or social-communication deficits (with emphasis on “and/or”).

I believe it’s necessary for IEP teams, parents and staff to continue to be informed of eligibility for ABA including social-communication deficits as I hear from parents that a student must have severe behaviors to access ABA services. Am I interpreting “and/or” correctly to mean that the criteria isn’t dependent on a significant behavioral deficit?

2. HB2217 (similarly SB2916) is related to ABA for Medicaid recipients. Will SEAC consider providing information to the Legislature that may support the state’s effort to continue providing medically necessary ABA for autism through the Quest Integration health plans when an individual is 21 and older? I believe the state is discriminating due to an individual’s disability of autism by ending ABA autism services coverage at age 21. The state’s Medicaid I/DD waiver plan attempts to provide ABA-like services for individuals age 21 and older who are eligible for DD services; this is not the same as QI health plan autism services for those under 21 years of age.

Sincerely, Linda Elento