Special Education Advisory Council

ANNUAL REPORT

July 1, 2021 to June 30, 2022
Message from the Chair

Here we are, another year of Zooming and I’m beginning to appreciate teleconferencing. It allows more people to attend that might not make it otherwise. We are a safe distance from each other and most of us don’t have to wear masks. However, since the Hawaii DOE is continuing to prioritize in-person learning, we will also try out a hybrid model next year so we can be “in person”. It will be nice to see everyone again.

Congratulations to Keith Hayashi in your role as Superintendent. Remember, SEAC is always here to provide you with feedback and interpretations from parents and stakeholders and as a means to spread the word. We are happy to work with you and your team on any issue or problem that makes special education better. We are available to collaborate on rewriting House Bill 2125, HD 2 relating to Official School Business.

SEAC reviews throughout the year the budget, educational plans, health and safety and policies and protocols regarding special education. As a result we write testimony whenever an item comes up in these areas to the Hawaii State Legislature and the Board of Education. This year we submitted 19 written and oral testimonies to the Legislature and 8 to the BOE. For details on these see our website at https://seac-hawaii.org/testimony/.

During the year there are standing agenda items, but setting big topics or ‘buckets’ for discussion during the year helps SEAC organize its valuable time and gives it an opportunity to do a deeper dive on important and timely issues and invite others into the conversation. This past year our members voted on 3 buckets for an extensive review: COVID policies, guidance and implementation, Extended School Year (ESY) Services and Secondary Transition. We learned much.

Thank you to all that we have worked with, learned from, and shared with this past school year. I’d especially like to thank Annie Kalama, Director of the Exceptional Support Branch, Heidi Armstrong, Assistant Superintendent of the Office of Student Support Services, Jacy Yamamoto, Acting Director of the Office of Monitoring and Compliance and Brikena White, Administrator, IDEA Team. They were always there when we needed to understand something in their areas of expertise. More importantly they were listening as we shared our insights.

Thanks also go out to our legislators and the Board of Education for hearing our testimonies and using them to help guide their way.

And most of all, thank you to the members of the Special Education Advisory Council for all their hard work. I appreciate Susan Rocco and Amanda Kaahanui, staff to SEAC. We couldn’t do it without you.

Finally, as always, we hope that all special education stakeholders find the information in this report of interest and value. SEAC always welcomes your feedback.

Aloha kāua,
Martha M. Guinan
SEAC Membership

SEAC is made up of a diverse group of individuals with expertise in a variety of aspects affecting special education and related issues. Persons with disabilities and parents of children with disabilities comprise a majority of the membership. Members are appointed by the Superintendent and serve without compensation for three-year terms. A roster of SEAC members for School Year 2021-22 can be found on the back cover.

SEAC members in a discussion via Zoom
Special education enrollment has declined slightly during the pandemic, but at a slower pace than general education enrollment.

There were 7750 fewer non-IDEA students in public schools in SY 21-22 compared to SY 19-20 (a drop in enrollment of 4.8%). Special education enrollment numbers also dropped—there were 2.3% fewer special education students in SY 21-22 compared to SY 19-20. That’s about half the rate of enrollment loss as that of students without disabilities.

Special education enrollment has declined slightly during the pandemic, but at a slower pace than general education enrollment.

Hawaii defines chronic absenteeism as being absent 15 or more days per school year. The pandemic appears to have made the problem worse for all students, including students with disabilities who generally have higher rates of absenteeism than other student groups.

% of Students Who Were Chronically Absent in Hawaii

Data for SY 21-22 is not complete; however, data through the 3rd Qtr. show that 56% of students with disabilities were at high risk of chronic absenteeism compared to 43% of all students.

Source: ESSA Reports for SY 20-21, SY 19-20 and SY 18-19 and 2021-22 Educational Plan Metrics on Absenteeism

* Lower levels of absenteeism are likely due to the closure of schools for the 4th Qtr.
Participation in statewide assessments for all student groups was visibly affected by the pandemic. The Smarter Balanced Assessment was suspended for SY 19-20 due to school closures necessitated by the pandemic. In SY 20-21, SBA participation was down 15-16 percentage points for IDEA students compared to SY 17-18.

Rates of proficiency on the Smarter Balanced Assessments (SBA) began to decline prior to the pandemic, with testing results in SY 20-21 falling even further (below the baselines set for students with disabilities in the 2014 State Performance Plan). While non-high needs students also declined in performance, the achievement gap remains significant.
One measure of accountability in Hawaii’s ESSA Plan is the % of students who enroll in higher education during the Fall after their graduation. Special education students have always been behind students without disabilities in attending college, and the pandemic appears to be negatively affecting their enrollment in higher education.

Restraint data for the 4-year period from SY 17-18 to SY 20-21 shows a trend of special education students making up most of the students who are physically restrained in school. The number of restraints in SY 20-21 was significantly lower due to the pandemic with its emphasis on distance learning. Of the 76 students restrained that year, 65 (85%) had IEPs.

Hawaii’s percentage of restraints that are related to students with disabilities is similar to the national average compiled by the Office for Civil Rights. In SY 2017-18, 80% of the students restrained or secluded were IDEA students. Fortunately, a state law passed in 2015 bans schools from excluding students in Hawaii.
Comparing Hawaii IDEA Student Data to National Norms

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There are two ways to contrast the size of Hawaii’s special education population to the national average. One is to measure IDEA students aged 5 in Kindergarten through age 22 as a % of the population (based on the census). The other is to measure IDEA students aged 3 through 21 as a percentage of all public school students within the state.

In both calculations, Hawaii is serving fewer children under IDEA which raises the possibility that schools are under-identifying children with disabilities who could benefit from special education.

To receive special education services, a student aged 3 through 21 must be found eligible under one of 14 eligibility categories in IDEA. Students with specific learning disabilities (SLD) make up the largest disability category in all states. Some differences exist in the relative size of disability categories here and on the Mainland. Five disability category populations are so small they are not represented in the charts.

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Source: US DOE 618 Part B Data Table 8, HIDOE SY 20-21 Enrollment Data and HIDOE SY 20-21 618 Child Count Data

Source: IDEA Section 618 Child Count Data, SY 20-21 and National Center for Education Statistics
IDEA strongly emphasizes serving students with disabilities in the **least restrictive environment (LRE)**. Most **Mainland states have two-thirds or more of their students with IEPs** spending the majority of the school day in the general education classroom. In Hawaii, despite recent gains, only **one-half of Hawaii students** are receiving the bulk of their instruction alongside non-disabled peers.

Having fewer students in the inclusive placements also means that Hawaii falls short of the national norm of only having 12-13% or less of all students with IEPs spending the majority of their day in self-contained classrooms. The one area of LRE where Hawaii outperforms other states is in having very few out of school placements.

Similarly, **fewer Hawaii preschool students with disabilities aged 3 through 5 receive the majority of their special education and related services in the regular early childhood program** compared to the national norm. The data below are collected as part of the Annual Performance Report which also requires states to report on the percentage of children with IEPs who are attending a separate education class, separate school or residential facility.

**Note:** The U.S. DOE now requires that states only report on 5 yr. olds who are attending preschool for this indicator (rather than all SPED 5 year olds). This adjustment has the effect of lowering the % of students in the least restrictive setting.
IDEA has a number of procedural safeguards for parents to use when they have a dispute with their child’s school over his or her rights. These include mediation, written complaints and due process hearing complaints. Hawaii parents opt to utilize due process hearing complaints more frequently and written complaints and mediation less frequently compared to the national norm.

On a side note: Of the 56 due process complaints filed in Hawaii in SY 19-20 16% (9) resulted in a hearing decision, compared to DP complaints filed in SY 20-21 where the percentage more than doubled to 39% (21 out of 54 complaints filed). While there are no comparative SY 20-21 national data, this percentage exceeds typical yearly norms.

A percentage of students who are identified as English learners (ELs) entitled to additional educational supports may also have disabilities that qualify them for special education and related services. In SY 20-21, dually identified EL students made up about 11% of the total special education population. Like many of their Mainland counterparts, these EL students had a higher rate of placement in separate classrooms than students with disabilities who are not English learners.
Purpose
SEAC shall provide policy guidance with respect to special education and related services for children with disabilities in the State. (IDEA, CFR 300.167)

Vision
SEAC 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 SEAC will use its strength as a broad based constituency group to play an active and influential role in decisions affecting policies, programs and services.

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

Functions
1. Advise the Department of Education of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)

2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)

3. Advise the Department of Education in developing evaluations and reporting on data to the Secretary of Education, U.S. Department of Education, under Section 618 of the Individuals with Disabilities Education Act. CFR 300.169(c)

4. Advise the Department of Education in developing corrective action plans to address findings identified in federal monitoring reports. CFR 300.169(d)

5. Advise the Department of Education in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169(e)

6. Monitor the implementation of activities and timetable pursuant to consent decrees or court orders regarding the education of children with disabilities. (IDEA 90 regulation maintained by SEAC because of the Felix Consent Decree).

7. Advise on the education of eligible students with disabilities who have been convicted as adults and incarcerated in adult prisons. (IDEA 97 regulation maintained by SEAC with representation by the Department of Public Safety).

8. Review Hawaii special education due process hearing decisions and findings. CFR 300.513(d)1

9. Review and comment with regards to the Department’s federal and state budgets for special education.
Recommendations to the Superintendent

One of SEAC’s most important duties is to advise the Department of Education on the unmet needs of students with disabilities and formulate recommendations to address these needs. Many suggestions were discussed and acted upon during the school year. The following recommendations represent important issues that have not yet been resolved.

PROFESSIONAL DEVELOPMENT: FAMILY-SCHOOL PARTNERSHIPS

Issue: The Department has committed to designing fundamental professional development to prepare all stakeholders to support a shared vision of inclusive education. This vision must include the student’s and his or her family’s perspective and insights in order to be truly meaningful. Professional development efforts—especially around the topics of inclusive education and family engagement—will have a greater impact, if they include the student and parent voice, as co-presenters as well as receivers of information in inclusive professional development activities.

Recommendation: Utilize parents and student leaders on professional development teams to model the home-school partnership that enhances the academic success of students with disabilities. Open up training to a broad range of stakeholders so that they may hear the same message and commit to the same goals for improving student outcomes.

CONFLICT RESOLUTION: MEDIATION

Issue: The Individuals with Disabilities Education Act (IDEA) offers parents a number of options for resolving conflict, including the formal options of mediation, written complaints, resolution sessions and due process hearing requests. Mediation offers timely results and generally preserves the relationship between school and home. The Center for Appropriate Dispute Resolution in Special Education (CADRE) lists additional benefits of mediation including high rates of compliance with settlements, mutually satisfactory outcomes, a greater degree of control and predictability of outcome, and personal empowerment. Yet SEAC’s reviews find that Hawaii families of students with disabilities consistently underutilize mediation. In SY 20-21 only 4 mediations were conducted—a rate per capita that is more than 4 times less than the national average.

Recommendation: Partner with SEAC and other interested stakeholders to launch a public awareness campaign on the various conflict resolution options, including the benefits of mediation, for resolving conflicts between schools and parents whose children are eligible for special education.

CONFLICT RESOLUTION: ENSURING ADEQUATE LEGAL REPRESENTATION

Issue: IDEA mandates that State Advisory Panels like SEAC be given due process hearing decisions to review. In examining the due process hearing decisions resulting from hearing requests filed in SY 20-21, we found that one attorney represented parent plaintiffs in 18 of the 21 decisions. This raises serious concerns about a possible shortage of legal representation for parents wanting to exercise their due process rights. SEAC is aware of a number of attorneys who have retired or left the state over the last five years, and we have heard from several families who were unable to secure an attorney to represent them in a due process hearing.

Recommendation: With the assistance of the Office of Dispute Resolution gather data on
Recommendations to the Superintendent (cont.)

CONFLICT RESOLUTION: ENSURING ADEQUATE LEGAL REPRESENTATION (cont.)

the number of plaintiff attorneys representing parents of children with disabilities in special education complaints, as well as potential barriers to adequate representation. Partner with SEAC and other stakeholders to address these barriers and level the playing field for parents who have been unable to exercise their right to due process because of the limited availability and/or affordability of competent plaintiff attorneys.

DISTANCE LEARNING

Issue: During the pandemic, we learned that a percentage of students with disabilities experienced greater academic success while distance learning compared to in-person learning. The benefits of distance learning for these students included 1) the ability to select the most convenient and preferred time of learning, 2) the ability to select the pace of learning, 3) reduced anxiety for students with social and emotional issues related to attending school in-person; 4) the ability to revisit material whenever they forget something and the ability to re-take quizzes and tests; and 5) better attendance for students who face barriers related to health, transportation or the responsibility for caring for other family members at home. However, many schools and complexes have chosen not to provide the option of distance learning with adequate supports and supervision.

Recommendation: In order to ensure FAPE for these students who gain more benefit from quality distance learning opportunities, the state and/or district work to ensure that teacher-mediated distance learning is available throughout the state, including the delivery of related services where appropriate.

CLASSROOM OBSERVATIONS BY PARENTS OF STUDENTS WITH DISABILITIES

Issue: The Every Student Succeeds Act (ESSA) explicitly encourages parent observations in Title I schools as a component of family-school partnerships. Additionally, the Department has system-wide protocols in place for parents of students with disabilities requesting an opportunity to observe a special education classroom as a potential program for their child or to observe their child once he or she is placed in the classroom. However, many families are not aware of these protocols and there is great variability in how schools interpret these protocols. As a consequence, there is inconsistency across schools and complexes areas in granting observation requests.

Recommendation: Partner with SEAC and other key stakeholder groups to educate the field on how to encourage parent participation in the education of their children, including family access to applicable protocols, visiting the classroom when warranted, and maintaining meaningful two-way communication between school and home.

ADDRESSING THE SAFETY OF SCHOOL PERSONNEL

Issue: The Department requested that HB 2125 and companion bill SB 3093 – Related to Official School Business -- be introduced during the 2022 legislative
Recommendations to the Superintendent (cont.)

ADDRESSING THE SAFETY OF SCHOOL PERSONNEL (cont.)

session to address threats of bodily harm made to school staff by parents of public school students. There was no prior discussion with or input from parents and many were unaware of the bill until it had been heard in both chambers. During the hearings it was revealed that a target of the legislation was the special education parent who interfered with official school business and could then be subject to a harassment misdemeanor charge with the possibility of a significant fine and/or jail time for exercising their IDEA due process rights.

Recommendation: Invite SEAC to partner with the Department in reviewing relevant data, utilizing existing legal remedies, and working out a mutually acceptable solutions to encourage family/school partnerships that would protect educators from harassment without unfairly punishing parents who advocate on behalf of their children with disabilities.

SUPPORTS FOR EXPELLED PRIVATE SCHOOL STUDENTS WITH DISABILITIES

Issue: SEAC has learned of a number of vulnerable students with disabilities who have been expelled from private schools in the middle of the school year, primarily due to behavior issues related to not having their needs accommodated in the private school setting. As they transition to public school, they are not always identified as being at high risk of self-harm and/or significant behavior problems due to their distress over being ejected from their private school home and familiar environment. Their parents are often equally ill-prepared to seek the supports needed by their children in the public school setting.

Recommendation: Partner with SEAC to develop protocols that would identify these high-risk students upon entry into public school and provide timely and individualized interim supports as IEPs are developed and implemented and/or evaluations are conducted.

Major Areas of Focus for School Year 21-22

Selecting three to four main topics to cover within the school year is part of SEAC’s commitment to the Leading by Convening process of coalescing around complex and important issues. Once the focus is set, members determine the scope of information gathering and work to bring the optimal mix of people together to problem solve. Four main issues were collectively chosen at the August meeting—Extended School Year Services (ESY), COVID-19 Policies and Procedures, Secondary Transition and the State Performance Plan/Annual Performance Report (part of the Results Driven Accountability system created by the Office of Special Education Programs).

State Performance Plan (SPP)/Annual Performance Report (APR)

Members began the year by reviewing OSEP’s determination of “needs assistance” for the FFY 2020 APR submitted in February 2021, and then worked through January 2022 on the FFY 2021 SPP/APR submission which represented a new six-year state plan cycle necessitating input on baselines, targets and improvement activities for all 17 indicators. In preparation for co-hosting an SPP/APR Stakeholder Engagement meeting on December 10th, SEAC staff created a resource page on the SPP/APR on the SEAC website as well as seven infographics on indicators highlighted for further discussion.
Main Areas of Focus for School Year 21-22 (cont.)

Extended School Year (ESY) Services
SEAC raised concerns in SY 20-21 about the eligibility determination for ESY services, prompting the Exceptional Support Branch to develop revised ESY Guidelines. Members reviewed the Guidelines and drafted a two-page infographic to help summarize the ESY criteria for families and school staff. For a copy of the infographics, visit the Infographic tab on the SEAC website menu.

COVID-19 Policies and Procedures
In SY 21-22 the Hawaii Department of Education placed a strong emphasis on in-person learning despite surges of cases of both the Delta and Omicron variants of COVID-19. Frequent updates by the Exceptional Support Branch and the School Health Section of the Student Services Branch helped to keep members informed about health and safety issues (masking, quarantine protocols, etc.), as well as staffing shortages, distance learning options and efforts to address learning loss in students with disabilities. These discussions also provided the Department with feedback from the field on public sentiment regarding the policies and procedures, as well as how they were being implemented in various school communities. SEAC consistently advocated for viable teacher-mediated distance learning options for those students with IEPs who performed better academically in a distance mode.

Secondary Transition
Statewide compliance with the 8 requirements of the National Technical Assistance Center on Transition Checklist for Secondary Transition (Indicator 13) fell from a five year average of 72.5% to 13.6% in 2019 and 14.1% in 2020. The precipitous drop was largely due to the effects of the pandemic. SEAC members provided input on improvement strategies for the 2020-2025 SPP/APR to ensure the meaningful participation of students and agency representatives in transition planning as well as providing appropriate transition services and courses of study that align with the students’ goals.

Feedback on ESSER Plan
In November, SEAC was the first stakeholder group to provide input on the draft American Rescue Plan Elementary and Secondary School Emergency Relief Fund (ESSER III) Plan and its three main areas of focus -- health & safety, accelerated learning, and social & emotional learning. Members offered suggestions from a special education perspective in a feedback session facilitated by the Policy, Innovation, Planning and Evaluation Branch.

Confidentiality under FERPA and IDEA
This issue was added to SEAC’s agenda after questions arose regarding how student confidentiality is maintained in the era of emails and electronic records. Members learned that HIDOE platforms encrypt data and emails; however there is no verification system to ensure that data or information sent by email is protected by the email recipient and vendor agencies.
Major Areas of Focus for School Year 21-22 (cont.)

Classroom Observations
The issue of parents sometimes being denied a request to observe their child’s classroom or a potential placement also lead to an opportunity to expand member expertise by examining special education protocols for classroom observations and the emphasis in the Every Student Succeeds Act to address parent and teacher communication by offering opportunities to observe classroom activities. Members discussed the need to encourage parent observations as a way to strengthen parent-school partnerships and improve student outcomes.

Due Process Review
In its annual review of due process options exercised by parents of students with IEPs in the previous school year, members noted a sharp uptick in SY 20-21 in the number of due process hearing requests that resulted in a decision by a hearing officer. At the same time, written complaints and mediation were underutilized compared to national norms. SEAC is seeking more information about the availability and affordability of plaintiff attorneys given that one attorney handled 18 of the 21 hearing requests that resulted in a decision by a hearing officer.

Testimony to the 2022 State Legislature
SEAC’s Legislative Committee began the session by trying to secure a hearing for SB 805—with its proposed exemption from ABA licensure requirements for teachers who are implementing behavioral plans developed by a Licensed Behavior Analyst or psychologist; however the bill was not heard and thus died. Conversely, SEAC presented testimony citing reasons why HB 2125 should not become law as written because it singled out parents of students with disabilities for potential harassment charges for interfering with school operations in advocating for their child’s rights under the Individuals with Disabilities Education Act. Other SEAC testimonies related to asthma education in schools, community schools, mandatory reporting of newborn hearing evaluation results, extending early intervention services to Kindergarten, raising the pay of early childhood educators, requiring seizure action plans, supporting teacher pay differentials and fully funding special education programs.

Interacting with the Board of Education
SEAC was fortunate to have Chair Martha Guinan chosen to represent special education in an Advisory Group assisting the Search Committee for a new Superintendent. SEAC’s Legislative Committee tracked board agenda items and testified on the following issues: the need for quality distance leaning options for students with IEPs, support of the Board’s decision to embrace the HA framework in developing a new strategic plan, support of the ESEA Consolidation State Plan amendment, and offering new metrics for consideration in the Board’s strategic plan.
# SEAC Member Roster - SY 21-22

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<tr>
<th>Name</th>
<th>Title</th>
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<tbody>
<tr>
<td>Ms. Martha Guinan, Chair</td>
<td>Person with a Disability</td>
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<tr>
<td>Ms. Susan Wood, Vice Chair</td>
<td>Community Representative</td>
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<td>Ms. Sara Alimoot</td>
<td>DOE Homeless Children Representative</td>
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<td>Ms. Virginia Beringer</td>
<td>Parent, Windward District</td>
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<td>Ms. Mary Brogan</td>
<td>Developmental Disabilities Division (DDD) Representative</td>
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<td>Ms. Deborah Cheeseman</td>
<td>Student Services Coordinator/Special Education Teacher</td>
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<td>Ms. Annette Cooper</td>
<td>Parent, Central District</td>
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<td>Ms. Shana Cruz</td>
<td>Parent, Kauai District</td>
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<td>Mr. Mark Disher</td>
<td>Parent, Hawaii District/Charter School Representative</td>
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<td>Ms. Mai Hall</td>
<td>Parent, Central District/Military Family Member</td>
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<td>Ms. Melissa Harper Osai</td>
<td>Parent, Leeward District</td>
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<td>Dr. Scott Hashimoto</td>
<td>CAMHD Representative (Designee)</td>
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<td>Mr. Kerry Iwashita</td>
<td>Adult Corrections/Department of Public Safety Representative</td>
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<td>Ms. Melissa Johnson</td>
<td>Parent, Maui District</td>
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<td>Ms. Tina King</td>
<td>Parent, Military Family Representative</td>
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<td>Ms. Bernadette Lane</td>
<td>Child Welfare Branch (DHS) Representative</td>
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<td>Ms. Jennifer Leoiki-Drino</td>
<td>Private School Representative</td>
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<td>Ms. Dale Matsuura</td>
<td>Student Services Coordinator/Special Education Teacher</td>
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<td>Ms. Cheryl Matthews</td>
<td>Division of Vocational Rehabilitation Representative</td>
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<td>Dr. Paul Meng</td>
<td>University of Hawaii College of Education Representative</td>
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<td>Ms. Kiele Pennington</td>
<td>Parent, Leeward District</td>
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<td>Ms. Carrie Pisciotto</td>
<td>Early Intervention Section (DOH) Representative</td>
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<td>Ms. Kau‘i Rezentes</td>
<td>Parent, Leeward District</td>
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<td>Ms. Rosie Rowe</td>
<td>Hawai‘i &amp; Pacific Island Parent Training &amp; Information Center Representative</td>
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<td>Ms. Ivlaee Sinclair</td>
<td>Person with a Disability</td>
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<td>Ms. Debora Uyeda</td>
<td>DDD Representative (Designee)</td>
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<td>Mr. Steven Vannatta</td>
<td>Community Representative</td>
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<td>Ms. Lisa Vegas</td>
<td>Youth Corrections Agency Representative/Olomana School</td>
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<td>Ms. Paula Whitaker</td>
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<td>Ms. Susan Wood</td>
<td>Community Representative</td>
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<tr>
<td>Ms. Annie Kalama</td>
<td>Special Education Director, Liaison to the Superintendent</td>
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<td>Ms. Wendy Nakasone-Kalani</td>
<td>Liaison to the Military</td>
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