

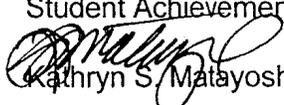


STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

September 18, 2012

TO: The Honorable Cheryl Kauhane Lupenui, Chairperson
Student Achievement Committee

FROM:  Kathryn S. Matayoshi, Superintendent

SUBJECT: **DISCUSSION/COMMITTEE ACTION ON THE DEPARTMENT OF
EDUCATION'S RECOMMENDATION TO HOLD A PUBLIC HEARING ON
AMENDMENTS TO TITLE 8, SUBTITLE 2 CHAPTER 60, HAWAII
ADMINISTRATIVE RULES (PROVISION OF A FREE APPROPRIATE PUBLIC
EDUCATION FOR A STUDENT WITH A DISABILITY)**

1. **RECOMMENDATION**

The Department of Education (DOE) recommends that the Board of Education (Board) approve the proposed amendments to the Rules Amending Title 8, Hawaii Administrative Rules (HAR), Chapter 60, Provision of a Free Appropriate Public Education for a Student with a Disability (Chapter 60) to proceed to the Office of the Attorney General for approval and to forward to the Governor's Office for approval to proceed to public hearing.

2. **RECOMMENDED EFFECTIVE DATE**

It is recommended that amended Chapter 60 become effective when the rule adoption process, pursuant to Chapter 91, the Hawaii Revised Statute (HRS), is completed.

3. **RECOMMENDED COMPLIANCE DATE**

It is recommended that Chapter 60 be effective upon adoption of the rules.

4. **DISCUSSION**

a. **Conditions leading to the recommendation**

The 2011 Legislature passed Act 129, Relating to Education, HRS 302-443(a) through (k).

b. Previous action of the Board on the same or similar matter

None.

c. Other policies affected

None.

d. Arguments in support of the recommendation

The revisions will place the Department in alignment with Act 129, HRS §302-443(a) through (k).

e. Arguments against the recommendation

Private schools and some parents/parent groups may voice concerns regarding the monitoring of students with disabilities placed at a private school, residential facility, or other non-public school or facility at the Department's expense.

f. Findings and conclusions of the Board Committee

On July 17, 2012, the SAC requested clarification of the amendments required by law and those recommended by the Department.

g. Other agencies or the departments of the State of Hawaii involved in the action

The Board of Education (Board) and the DOE will communicate the BOE's decision to implement amended HAR Title 8, Chapter 60, Provision of a Free Appropriate Public Education for a Student with a Disability to all schools, including public charter schools (PCSs), and private school, residential facility, or other non-public schools that have students with disabilities.

h. Possible reaction of the public, professional organizations, unions, HIDOE staff and/or others to the recommendations

Although there may be some negative comments on the incorporated revisions by private schools, or other non-public schools and parents of students with disabilities placed at these schools, it is anticipated that the proposed Chapter 60 revisions will be supported by the community and DOE staff.

i. Educational implications

The proposed revised Chapter 60 affords all students ages 3 to 20 with a Free Appropriate Public Education in the Least Restrictive Environment that emphasizes special education and related services using specially designed instruction to meet the unique needs of students with disabilities.

j. Personnel implications

Personnel in all public schools, including Public Charter Schools, must adhere to the requirements under Chapter 60.

k. Facilities implications

None.

l. Financial implications

Noncompliance with the monitoring requirements under the Individuals with Disabilities Education Improvement Act and Chapter 60 may result in lawsuits, due process hearings, settlements, withholding of federal funds, etc. Failure to comply with the monitoring requirements of the HRS and Chapter 60 by the private school, private residential facility or non-public school or facility will result in the withholding of payment to the private school, private residential facility or non-public school or facility.

5. **OTHER SUPPLEMENTARY RECOMMENDATIONS**

None.

KSM:DF:ks

Enclosures: Reference Guide to Amendments to Title 8, Subtitle 2 Chapter 60, Hawaii
Administrative Rules
HAR Chapter 8-60 Standard format
HAR Chapter 8-60 Ramsayer format
Act 129, Relating to Education
HRS §302A-443(a) through (k)

c: Office of Curriculum, Instruction and Student Support

