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TESTIMONY BEFORE THE BOARD OF EDUCATION
STUDENT ACHIEVEMENT COMMITTEE

RE: AGENDA ITEM IV, B, PRESENTATION ON ANNUAL REPORTING OF
THE 2017-2020 DEPARTMENT OF EDUCATION AND BOARD OF
EDUCATION JOINT STRATEGIC PLAN INDICATORS FOR GOAL 1
(STUDENT SUCCESS)

TUESDAY, NOVEMBER 7, 2017

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Cox and Members of the Committee:

No educational measure is perfect. To increase student learning, measures of student success must provide meaningful feedback to the teachers and administrators tasked with crafting our children's future. With that in mind, HSTA offers the following comments on the 2017 Goal 1: Student Success results, which we feel clarify the context for the information being reported today.

Regarding the inclusion rate indicator, the 51 percent target for the 2020 school year can only be achieved if the state receives and distributes more resources to special education. According to federal law, special needs students must be placed in the least restrictive environment that is appropriate for the child, as determined by the individualized education program process. Our state's inclusion rate cannot be escalated simply by mandate. Rather, it must comport with students' IEPs. That said, inclusion only works if teachers—both special education and general education teachers—are given adequate classroom resources, professional development, and planning and preparation time. We urge the DOE and the BOE to work with HSTA during the 2018 legislative session to secure more funding for our schools. HSTA will be introducing a constitutional amendment to increase school funding, which specifically includes special education. The DOE and BOE's support on this CONAM is vital. HSTA also recommends we look at how many special education

positions are not directly at the school level, and are held at the complex area and state level.

Concerning third-grade literacy and academic achievement indicators (ELA, Math, and Science), we continue to maintain that excessive amounts of standardized testing and accompanying mandated curricula diminish the quality of our children's educational experiences by replacing creativity and critical thinking with test-taking skills and rote content. Studies show that test scores strongly correlate with socioeconomic status: rich schools do well, while poor schools struggle. Because of the pressure to perform well on tests and their inability to control the socioeconomic status of their students, struggling schools cut back on arts and cultural education, career and technical courses, electives, and more, so that more resources can be spent on prefabricated programs and consultants that purport to increase test scores. We, again, invite the board to encourage the use of authentic assessments by establishing a pilot, which would align learning content with real-world experiences and meaningfully measure the growth of students' knowledge and skills over time.

With regard to achievement gap benchmarks, we note that many high-poverty schools that struggle to boost overall ELA, math, and science proficiency benchmarks have smaller achievement gaps than their more affluent and high-achieving peers. Nanakuli High and Intermediate, for instance, is 26 percentage points below the state ELA proficiency average, 24 points below the state math average, and 28 points below the state science average, but has an ELA achievement gap of only 21 points and a math achievement gap of only 5 points, both of which exceed the department's 2020 achievement gap targets. Mililani High School, in contrast, has an ELA proficiency score that is two percentage points above the state average, math score that is only 8 percentage points below the state average, and science score that is nine points above the state average. Yet, Mililani High School has a whopping 41 point ELA achievement gap and 30 point math gap, each of which are significantly worse than both the current overall state average and the department's 2020 goal. Similar results can be found when comparing other high-poverty and affluent schools—Konawaena High has a math achievement gap that is exactly half of Moanalua High's math achievement gap, despite Moanalua having exactly twice the percentage of students meeting proficiency in math as Konawaena. We believe that results like these show that high-poverty, low-achieving schools may have smaller achievement gaps precisely because overall achievement is generally lower in poor communities. Clearly, we should not ignore



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the needs of students attending high-poverty schools just because poverty corresponds favorably with a school's ability to meet the DOE's achievement gap targets. This discrepancy should prompt the board and the department to reexamine the manner in which the achievement gap is calculated and, perhaps, the overall utility of the measure.

As it pertains to CTE Concentrators, our concern is that the 2017 results do not reflect a high level of career and technical mastery. Currently, to complete many CTE programs of study, a student must complete only two courses in addition to a foundational academic course: a core course and a cluster course. For example, the marketing program of study under the business career pathway requires completion of a core business course and a cluster marketing course, as well as a foundational economics class. While some programs also require a third-year concentration course, those that do not may fail to offer the rigor necessary to prepare students for employment in the corresponding vocation. Instead our goal should be to prepare our student with the licensure and skills needed to enter the workplace. We should be backward mapping the content that a certain CTE fields needs and then provide those courses to our students.

For High School Graduation rates, HSTA is concerned about the pressure to increase graduation rates and the shortcuts being taken, specifically in the offering of online credit recovery classes. These classes are offered to students who may be in jeopardy of failing a class. These credit recovery classes can take just a few days and be based on multiple choice exams where students can Google the answers. HSTA would request that the BOE request from the department how many credit recovery classes were taken in the 2016-2017 school year.

Today, we are asking the board to refocus on measures that matter, especially those indicators that encapsulate the "inputs" that impact student learning. We implore the board and the department to adopt a holistic system of support for struggling schools that advances whole child education (including wraparound services for disadvantaged and special needs students), expands academic curricula, and empowers teachers to become change agents in addressing community needs. One evidence-based strategy for assisting low performing schools

is the community schools model, which emphasizes wraparound services, like health care, and amplifies social services' access to school campuses. In employing high quality teaching and culturally sensitive curricula, prioritizing student wellness, and highlighting community engagement, community schools have been shown to increase graduation rates and college enrollment, while decreasing behavioral referrals and chronic absenteeism. Creating community schools in high-need areas would be an effective use of federal Title I funds, up to 7 percent of which may be used to uplift our state's lowest performing 5 percent of schools under the Every Student Succeeds Act.

We hope that you will take this opportunity to launch a paradigm shift in how we address the needs of our students. We ask you to use today's report to endorse a plan of action that will deliver the schools our keiki deserve.

11/7/2017

To the Hawai'i Board of Education:

My name is Dr. Amanda N. Kelly. I am writing to express concerns regarding Superintendent Kishimoto's position on hiring and collaborating with licensed behavior analysts (LBAs) for our keiki who require applied behavior analysis (ABA) in the school setting. In 2015, Governor David Ige signed autism insurance "Luke's Law" into law. That same year, he also signed licensure for behavior analysts into law (Chapter 465-D). In 2016, the Department of Education (DOE) contested the Behavior Analyst licensure law, seeking an exemption. Many families and teachers advocated for maintaining the licensure requirements within DOE public school settings. Our legislators agreed, offering only a temporary reprieve for the requirement of direct support workers to become Registered Behavior Technicians (RBT) until 1/1/2019. The expectation and requirement for licensed behavior analysts was upheld and effective as of 7/1/2016. In 2017, licensed psychologists challenged our law stating they were being pushed out of their right to practice applied behavior analysis (ABA). Our legislators agreed mechanisms exist for those who have behavior analysis in their scope of training and practice. They did not adjust the language of the licensure law during the 2017 session.

This summer, (July 2017) I received authorizations from several commercial health plans who offered to fund applied behavior analysis (ABA) services on DOE school campuses. Denial of this coverage is actually a violation of the mental health parity law. Unfortunately, when I reached out to the Department of Education's administrators, Debra Farmer and Suzanne Mulcahy, I received a less than satisfactory response. Simply put, Debra Farmer stated that insurer-funded ABA cannot occur on a school campus. In reply, I noted:

"While this conversation was initially about access to medically-necessary applied behavior analysis services, one reason health plans are approving school-day requests are because clients are not receiving fungible services from the Department of Education (DOE). For my clients specifically, they have been denied access to applied behavior analysis services from licensed providers in their current DOE placements, which is a violation of state law (Chapter 465-D), as well as IDEA, for failing to provide students a free and appropriate public education (Andrew F. v. Douglas County School District, October 2016).

It is disheartening and discouraging to experience such resistance and an unwillingness to collaborate from you, on behalf of the Hawai'i Department of Education. The Department's current position on applied behavior analysis appears to be in direct conflict with its own mission to educate our keiki: "To serve our community by developing the academic achievement, character and social-emotional well-being of our students to the fullest potential. We work with partners, families and communities to ensure that all students reach their aspirations, from early learning through college, career and citizenship."

In order to advance these discussions and identify solutions, I would like to share the Department's official position with the health plans and providers, my clients, your principals, and our legislators. Will the Department be issuing an updated memo on these matters?"

No additional response was received on behalf of the Hawai'i Department of Education.

On August 3, Senator Donovan Dela-Cruz issued a letter to Superintendent Kishimoto explaining his concerns with the apparent legal violations of the Department of Education for refusing children access to licensed behavior analysts (LBAs) and applied behavior analysis (ABA) on school campuses during the school day. He did not receive a reply for 2 months. Representative Beth Fukumoto also issued a letter to Superintendent Kishimoto on behalf of the same family. I am unsure if Representative Fukumoto ever received a reply.

On September 12, Dr. Kishimoto held a community meeting in Wahiawa on O'ahu. At that meeting several families and teachers spoke to Dr. Kishimoto about their concerns regarding lack of ABA services and licensed providers in the school settings. Dr. Kishimoto appeared to listen to concerns and asked families for their contact information. When the emails between myself and Debra Farmer were mentioned, Dr. Kishimoto said she had not seen these emails and was "interested in learning more".

On September 18, Dr. Kishimoto held a community meeting in Kona on the island of Hawai'i. I had printed a copy of the email exchanges between me and Debra Farmer (with Suzanne Mulcahy copied) to provide to the Superintendent at this meeting. Instead, Dr. Kishimoto was on my flight from O'ahu. So, when we landed, I handed Dr. Kishimoto the emails. I did not mention these emails at the meeting. However, Dr. Kishimoto was asked questions about how students could gain access to ABA and licensed providers during the school day. She responded by saying "I do not have the data in front of me". When asked her plan for bringing the DOE into compliance, Dr. Kishimoto quipped, now that it's litigious, the lawyers will have to figure it out. When asked how families and community members could go about getting ahold of Dr. Kishimoto, she stated, "If you wanted someone who sits at their desk, then you did not need a superintendent, you needed a secretary". When a parent asked, "Does the DOE currently have any licensed or credentialed behavior analysts, Dr. Kishimoto snapped and replied by saying, "I will not be cornered by you at a community meeting". This is alarming, upsetting, and disrespectful, but my concerns do not end here.

In a letter dated, October 2, 2017, Dr. Kishimoto issued a response to Senator Dela-Cruz. In her letter, the Superintendent states: "The Hawaii DOE currently recognizes the following licensed or credentialed professionals, whose practice commonly overlaps with behavior analysis, as exempt from the behavior analyst licensure law"

- general education teachers
- special education teachers
- resource teachers
- school psychologists
- clinical psychologists
- behavior health specialist
- counselors
- related service providers (e.g., Speech Pathologist, Occupational Therapist, Physical therapist, etc.)
- social worker

The actions of the superintendent and the letter she wrote, conveys an arrogance, as she feels (or has been lead to believe) that she's identified a loophole in our state licensure law. Instead, Dr. Kishimoto has publicly acknowledged several federal violations being committed by the Hawai'i DOE (e.g., FAPE, IDEA, and ADA). A class-action lawsuit is now being drafted and a federal case is going to be brought against the Hawaii Department of Education, Dr. Kishimoto, Debra Farmer, Suzanne Mulcahy, and the Hawai'i Board of Education. Lawsuits are no news to Dr. Kishimoto, as evidenced by this 2016 case in the Gilbert Public School District in Arizona.

Now, more than ever, is the time to unite and work together, rather than spend our energies working against one another. I am available to brainstorm solutions. I am here to help. This has been my missive all along. I invite you to learn more about me. I look forward to learning more about each of you and discovering how we can all work together #forourkeiki.

Mahalo,

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