

January 18, 2018

Hawai'i Board of Education
Finance and Infrastructure Committee
Kenneth Uemura, Chair
Nolan Kawano, Vice Chair

Aloha Chair Uemura, Vice Chair Kawano and Members of the Committee,

We would like to comment on Agenda Item IV. A. Update on the Department of Education's supplemental budget request for Fiscal Year 2018-2019: Executive Branch decisions.

We are a group of advocates from Native Hawaiian, parent, disability, higher education, multilingual, social justice, and education reform communities who have come together to look at opportunities and risks for advancing equity and improving achievement under the Every Student Succeeds Act (ESSA).

We wanted to update the Committee and the Board Members of our advocacy to the legislature. In reviewing the DOE/BOE approved supplemental request and the Executive Branch decisions we came across some findings and items that were not aligned with our views. Consequently, we are currently advocating to the legislature on particular line items for consideration, and would like to share our findings and advocacy with Board Members.

In our first review of the 2018-2019 supplemental budget, we noticed a line item that sparked our attention, EDN200 Innovation, Program ID 25220 for \$1 million. The reason is we advocated against this similar line item in last year's Executive Budget as there seemed to be a lack of transparency and accountability for the large \$10 million Innovation Fund Executive request. For the 2018-2019 supplemental budget, the Executive decision was not to fund the \$1 million dollar request. However, we learned that the Department is implementing the Innovation Fund in the 2017-2018 year even without specific dedicated funding. Moreover, we learned that the \$1 million innovation fund is using monies from Title 1 and Program ID 25220 School innovation, which both are supposed to help struggling students. While we support innovation, we are concerned about the lack of transparency, process and accountability of this initiative as the public has received little information about how this fund will indeed help our students with the most need.

In our advocacy to the legislature, we have highlighted this above item as well as specific line items for which we are advocating (see attached slide). We believe that every line item request in the DOE budget should point to how the Department will move the indicators of the Strategic Plan. For our high needs students narrowing the achievement gap is of highest priority. We feel that all of our highlighted requests point to a particular indicator and address narrowing the achievement gap. We will keep pressing the Department and the Board to articulate how they are progressing on the goals of the indicators. For the Innovation line item, however, we are not clear on how this fund will help and would like the Department to be more transparent about how these grants will make a difference for our high need students.

We also learned that the Executive decision this year was different in previous years. Instead of the Governor reviewing each line item on his own, he gave a lump sum to the Department to

prioritize the funds. While this is a unique and beneficial situation for the Department, we hope that if it should occur again, we could collaborate with the Department so that we can be united in our advocacy.

Thank you for the opportunity to testify.

Mahalo,

Martha Guinan
Cheri Nakamura
Sylvia Hussey
Patricia Halagao
Brook Chapman DeSousa
Gavin Thornton
William Pila Wilson
Ka'ano'i Walk
Kanakolu Noa
David Miyashiro
Paula Adams
Shawn Ford
Alohilani Okamura
Deborah Zysman

DOE VS GOV DECISION

		DOE BASE	DOE POS	GOV POS	DOE TOTAL	GOV TOTAL	TIED TO INDICATOR
Prog ID	DESCRIPTION	FY19	FY19	FY19	FY19	FY19	FY19
EDN200	INNOVATION	4,971,073			1,000,000	0	?
EDN100	OFFICE OF HAWAIIAN EDUCATION	2,565,688	1	0	283,255	0	Achievement, GAP
EDN100	OFFICE OF HAWAIIAN EDUCATION	2,521,504	3	0	2,027,645	1,876,864	Achievement, GAP, School Climate, Family and Community
EDN150	SPECIAL EDUCATION	234,567,130			10,329,548	0	Achievement, GAP, School Climate
EDN100	WEIGHTED STUDENT FORMULA	887,514,342			26,600,000	2,000,000	Achievement, GAP, Inclusion
EDN200	WORLD LANGUAGES AND HEALTH		2	0	183,818	0	Achievement, GAP
EDN200	ELL PROGRAM	855,514	1	1	91,909	91,909	Achievement, GAP
EDN300	COMMUNITY ENGAGEMENT OFFICE	27,132	3	3	293,557	293,557	GAP, School Climate, Family and Community

STRATEGIC PLAN INDICATORS	2016 BASE	2017	2020 TARGET
SCHOOL CLIMATE	TBA	TBA	TBA
ACADEMIC ACHIEVEMENT ELA	51%	50%	61%
ACADEMIC ACHIEVEMENT MATH	42%	42%	54%
ACADEMIC ACHIEVEMENT SCIENCE	43%	46%	64%
ACHIEVEMENT GAP ELA	33	33	25
ACHIEVEMENT GAP MATH	29	28	22
INCLUSION RATE	37%	37%	51%
FAMILY AND COMMUNITY ENGAGEMENT	TBA	TBA	TBA



Native Hawaiian Education Council

January 17, 2018

Lance Mizumoto, Chair
Brian DeLima, Vice Chair
State of Hawai'i, Board of Education
1390 Miller Street, Room 309
Honolulu, Hawai'i 96813

Via: testimony_boe@notes.k12.hi.us

Re: **Agenda Item IV. Reports of Board Committees; B. Finance and Infrastructure Committee Report**

Dear Chair Mizumoto, Vice Chair DeLima and members of the Board of Education:

The Native Hawaiian Education Council (“NHEC” or “Council”) would like to **provide comments** on the above referenced agenda item, mindful that Hawai'i operates in a unique context of having a single State Educational Agency (SEA) and Local Educational Agency (LEA); two official languages—English and Hawaiian—that are mediums of instruction in the State's public education system; and a public charter school system that is a blend of Hawaiian language immersion and Hawaiian culture based schools and in the midst of implementing the Every Student Succeeds Act (ESSA)—the most pervasive federal policy change since No Child Left Behind in 2001, returning control to State's by Congressional intent.

The 17-18 school year marks a number of milestones in 'ōlelo Hawai'i (Hawaiian language) and we provide our comments within the context established:

- **11 years** Kawaihuelani - 1985 [1985 BA in Hawaiian language approved, housed in Indo-Pacific languages; **2007 Kawaihuelani created under Hawai'inuiākea** at the University of Hawai'i – Mānoa];
- **21 years Ka Haka 'Ula O Ke'elikōlani College (KHUOK) established** - 1997 [21 yrs (1997) Only Indigenous language college in the US; 36 yrs (1982) in the UH system beginning as a Hawaiian Studies Dept. established at UHH 1982; BA degree was approved earlier]



- **21 years Kahuawaiola** established at KHUOK - 1997 [Indigenous Teacher Education Program];
- **22 years Māmaka Kaiao (dictionary)**, A Modern Hawaiian Vocabulary - 1996;
- **29 years Hale Kuamo‘o** - 1989 [Hawaiian Language and Culture Center, legislatively created 1989; moved to the Hawaiian Language College 1997];
- **31 years K-12 Hawaiian Immersion Schools in public education (Kaiapuni)** - 1987;
- **35 years Pūnana Leo Preschools in Hawaiian** – 1983;
- **40 years Official Language of the State of Hawai‘i** - 1978 Constitutional Convention
- **46 years Ka Leo Hawai‘i Hawaiian language radio program** – 1972; and
- **61 years Pukui/Elbert Hawaiian language dictionary** – 1957.

Our comments focus on the following points:

1. **Fund EDN100, Program ID 16732, \$283,155 in the Office of Hawaiian Education.** The unfunded amount represents additional investments in Kaiapuni (Hawaiian language medium) education in supporting a pathway of education for one of Hawai‘i’s two official (constitutional) languages, including curriculum development, instructional supports and capacity building to advance Hawaiian education.
2. **Fund EDN 200, World Languages and Health, Program ID 25024, \$183,818.** Funding of the two requested positions strengthens the commitment to Board of Education Policy 105-15 Seal of Biliteracy.
3. **Increase transparency regarding the intent and implementation of EDN200 Innovation, Program ID 25220, \$1,000,000.** Submittal notes indicate, “New, Leveraging \$650,000 Title I and \$350,000 existing general funds”. While we commend the Department for allocating funds to inspire and support innovative practices, we are concerned that the: A) FY 2018-2019 supplemental budget line is unfunded; B) Department already launched an innovation grant process in SY 2017-2018 without broad internal or external awareness/support; C) Need to be more explicit in how Innovation Program and Title I principles, implementation and funds are aligned toward addressing the needs of Title I targeted schools and students.
4. **Support the Funding of the Offices of Community Engagement and Strategy, Innovation & Performance (OSIP) – EDN 300.** Both offices provide critical system level resources, data and information to strengthen family and community holistically; and track and monitor, among other things, the implementation of the Board’s strategic plan and ESSA implementation, respectively. We also recommend that OSIP engage with community organizations at large more frequently, continuing the open and transparent manner of interaction established by former Assistant Superintendent Tammy Chun.



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- 5. Support the Funding of Alternative Teacher Route and Teacher Certification Stipend Programs – EDN 300.** While the Council supports the \$1,000,000 combined investments in these programs, in general, NHEC asks that the Board and Department ensure that the implementation of these programs include filling needs in Kaiapuni (Hawaiian Language Medium) and charter schools—both settings which are already under-resourced (e.g., facilities, teachers, curriculum, programming).

The Native Hawaiian Education Council was established in 1994 under the federal Native Hawaiian Education Act. The Council is charged with coordinating, assessing and reporting and making recommendations on the effectiveness of existing education programs for Native Hawaiians, the state of present Native Hawaiian education efforts, and improvements that may be made to existing programs, policies, and procedures to improve the educational attainment of Native Hawaiians.

Please feel free to contact the Council's Executive Director, Dr. Sylvia Hussey, directly via e-mail (sylvia@nhec.org) or office telephone (808.523.6432) with any questions.

Sincerely,



Dr. Lisa M. Watkins-Victorino, Chair

cc: Native Hawaiian Education Council and staff



1/18/2018

Good Afternoon,

Unfortunately, I am unable to attend today's Board of Education meeting in person. Please accept this letter as my written testimony in place of presenting live.

Since September 2017, I have spoken to the Hawai'i Board of Education about my concerns as an advocate for families and providers in the state, specifically recipients and providers of Applied Behavior Analysis (ABA) services. For months, families have testified and shared their stories, as have teachers, siblings, and self-advocates. Although we have asked questions several times (e.g., "How many licensed behavior analysts are employed by the DOE"), we have not received any direct answers to our questions. Rather, we receive retaliatory responses for our advocacy efforts, specifically the cancelling of contracts, or denial of services for students themselves as a result of actions and statements made by Ms. Debra Farmer, DOE Special Education Administrator. As a result of inadequate action and lack of meaningful support, the community is moving forward and a class-action lawsuit will be brought against the state, as originally stated in my testimony on 11/7/2017.

The last time the HIBOE met, 12/5/2017 I asked several questions:

- How many licensed behavior analysts do you have on staff,
- How many are working in the capacity of an LBA,
- How many students have ABA written on their IEPs, and
- What dissemination efforts were taken to inform IEP teams and families about these available services

On January 5, 2018, the Hawai'i Department of Education released a legislative report titled: "Report on Behavior Analyst and Certification Requirements Implementation". This report speaks to some of the questions that I have asked in the past. However, the document also contains information that is incorrect and misleading. I have selected just a few of these errors to bring to your attention today.

DOE Statement: "...the recognized scope of practice of teachers and other professionals overlap with the practice of behavior analysis. Licensed teachers and other licensed educational professionals are exempt per HRS 465-7(a)(1)."

REPLY: Teachers are not licensed by the Department of Commerce and Consumer Protection (DCCA), which means they are not regulated by RICO (Regulated Industries Complaints Office). As stated in Chapter 465-D, a teacher "directly implements intervention or assessment plans under supervision *and does not* design intervention or assessment plans."

DOE Statement: There are approximately 1,000 ASD students who require intensive instruction, as indicated by the need for one-to-one support. These students may require ABA as an IEP service provided by an LBA and Registered Behavior Technician (RBT).

REPLY: The DOE website lists 1,820 students who have qualified for an IEP under a classification of autism.

- How many of these students have been recommended Applied Behavior Analysis (ABA)?
- How many of these students have ABA included in their Individualized Educational Programs (IEP)?
- How many of these students have a Licensed Behavior Analyst (LBA) as a member of their IEP team?
- How many of these students have a Registered Behavior Technician (RBT) as a member of their IEP team?
- How many students without an autism diagnosis have a Behavior Support Plan (BSP) as part of the IEP programming? Of those students, how many have a Licensed Behavior Analyst as a member of their IEP team?

DOE Statement: "Increased HIDEO LBA and RBT personnel- The HIDEO employs 154 RBTs (credentialed and in training) and 54 LBAs (licensed and in training).

REPLY: The purpose of the behavior analyst licensure law was to increase consumer protection by creating an easily recognizable license that allows a person to practice behavior analysis. While students of behavior analysis are allowed to practice (under the supervision of a licensed behavior analyst), they may not "purport to be a behavior analyst" per HRS 465-7(a)(1)."

HIDEO BACB Credentialed Personnel				
District/ Complex Area	# of LBAs	# of LBA Candidates	# of RBTs	# of RBT Candidates
Honolulu District	1	0	0	10
Central District	1	4	1	21
Leeward District	0	15	0	44
Windward District	4	8	5	29
Hawaii District	0	4	0	30
Maui District	5	7	2	3
Kauai District	1	0	0	5
STATE	3	1	1	3
Total	15	39	9	145

Looking at the information provided by the HIDEO (table titled "HIDEO BACB Credentialed Personnel"), it would be more accurate for the Department to state that they have 15 Licensed Behavior Analysts (LBA) and 9 Registered Behavior Technicians (RBT) currently, two years into implementation of Chapter 465-D. It should be noted during the 2016 Legislative session Suzanna Mulcahy reported to Representative Della Belatti, that there were 20 Board Certified Behavior Analysts in the DOE and "many more in the pipe". It appears that there are now 5 LESS behavior analysts than were reported 2 years ago. This is certainly a concerning trend.

Even if someone possess the credential of Registered Behavior Technician (RBT), they may not call themselves an RBT or claim they are practicing as an RBT, unless they meet all supervision and related requirements. Currently, RBTs are required to have at least 5% of their hours supervised by a Licensed Behavior Analyst (LBA), who agrees to be the "Responsible Certificant" for the RBT (<http://www.bacb.com>).

DOE Statement: "Many states have determined that the ABA licensure standard is consistent with the accepted standards of their respective educational professionals. These states have also recognized that the ABA licensure standard could prohibit public and private school employees from performing their full scope of work. As a result, 14 states have either limited or completely exempted schools and educational professionals from this law.

REPLY: This information is false and/or misleading. Many states that have licensure passed these laws 8-10 years ago. When we look at states that pushed autism insurance through early on, we will see low age and dollar caps. This is not because those states did not feel it was important, or that the research does not exist demonstrating efficacy, it was done for political reasons. In all states where autism insurance laws placed low age or dollar caps, they have revised, repealed, or redrafted language since, reflecting what later states have done.

In addition, because a state does not require licensure in school settings, does not mean schools are not providing Applied Behavior Analysis (ABA) by Licensed Behavior Analysts (LBAs). Massachusetts is very clearly one of those states. As a matter of fact, in order to pull funds from Mass Health (for school-based claiming) for ABA services delivered in the school setting, the state requires "the practitioner is required to be licensed by the Board of Registration of Allied Mental Health and Human Services Professions as an Applied Behavior Analyst (ABA), or if prior to January 6, 2016, may be a Board Certified Behavior Analyst (BCBA). In addition, services may be reimbursed if provided by a licensed physician, psychologist, or psychiatrist providing ABA within the scope of his or her licensure; or an Assistant Applied Behavior Analyst (AABA) or other paraprofessional working under the supervision of a licensed ABA. If prior to January 6, 2016, AABA or paraprofessionals may be working under the supervision of a BCBA." <http://www.mass.gov/eohhs/docs/masshealth/bull-2015/sbm-29.pdf>

At the same time the 2018 legislative report was released on the DOE website, the report that was intended for the 2017 legislative session was also added to the HDOE website. Although the report is dated 12/29/2016, it should be publicly acknowledged that this report was not posted until 12/2017.

Reports for the 2017 Legislature

REPORTS ON BILLS AND RESOLUTIONS passed in the 2015 and 2016 Regular Session, Hawaii State Legislature.

	Authorizing Instrument	Subject	Report or Action Requested
1	Act 107 SB 1311, CD1 (2016)	Requires the DOE to report to the Legislature on implementing measures to comply with the behavior analyst licensure and certification requirements.	
2	Act 109 HB 0820, CD1 (2016)	Relating to Public Early Childhood Education	View report

As always, I am here to help. Now, more than ever, is the time to unite and work together.

Amanda N Kelly, PhD, BCBA-D, LBA
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