



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/22/2023

Time: 09:35 AM

Location: CR 229 & Videoconference

Committee: Senate Commerce and
Consumer Protection

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB 1340, SD1 RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

Purpose of Bill: Expands the exemption from the behavior analyst licensing requirements for certain teachers working in collaboration with a licensed behavior analyst or licensed psychologist. Removes the exemption from the behavior analyst licensing requirements for direct support workers. Allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) supports SB 1340, SD1, to modify the exemptions allowed under Chapter 465D, Hawaii Revised Statutes. The Department advocates for licensed classroom teachers, or individuals who are working as a classroom teacher and are enrolled in a teacher preparation program working towards licensure, to be allowed to implement, but not design, Applied Behavior Analysis services in a school setting when in direct collaboration with a licensed behavior analyst or a licensed psychologist.

Supporting the behavioral needs of students with appropriate interventions is part of a classroom teacher's job duties and scope of practice, therefore, they should be allowed to implement applied behavior analysis services.

Thank you for the opportunity to provide testimony on SB 1340, SD1.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
February 22, 2023

The Honorable Senator Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection
The Thirty-Second Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Keohokalole and Committee Members:

SUBJECT: SB1340 SD1 Relating to the Practice of Behavior Analysis

The Hawaii State Council on Developmental Disabilities **supports SB1340 SD1**, which makes permanent the exemption from the behavior analyst licensing requirements for teachers working in collaboration with a licensed behavior analyst or licensed psychologist. Removes the exemption from the behavior analyst licensing requirements for direct support workers and allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services.

Hawaii DoE has a shortage of qualified individuals to offer ABA services to our youth with Autism. ABA stands for applied behavioral analysis and is the leading practice that can help individuals with Autism succeed in our community. ABA helps curb unwanted behaviors, improve academic performance, and enhance everyday functional skills. This measure looks at one way to help bolster Hawaii's workforce that can offer ABA services. Under the law, only a licensed ABA therapist can offer ABA services, even though others can be qualified.

Teachers who graduate with a specialization in severe/profound disabilities and an autism teacher licensure program, like that offered by UH should be able to provide ABA services. This program meets the state requirements to be qualified to offer ABA services. Allowing these teachers and licensed psychologists to offer ABA services will help our state better serve our intellectually and developmentally disabled keiki.

We defer to Special Education Advisory Council for any substantive comments. Thank you for the opportunity to submit testimony in **support of SB1340 SD1**.

Sincerely,

Daintry Bartoldus
Executive Administrator



Committee on Commerce and Consumer Protection

Wednesday, February 22, 2023

9:35 AM

Conference Room 229 & Videoconference

State Capitol

415 South Beretania Street

Comments on SB1340 SD1 Relating to the practice of behavior analysis

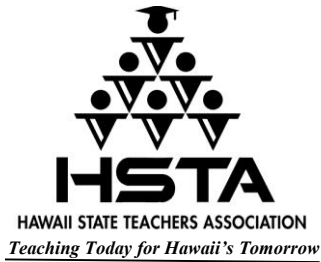
Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee:

On behalf of the Hawai'i Association for Behavior Analysis (HABA) we thank you for the opportunity to submit comments on SB1340. The association recognizes the need for ensuring the language of the law removes prior sunset dates and allows teachers to **implement, but not design** applied behavior analysis (ABA) services when working in collaboration with a licensed behavior analyst or licensed psychologist with ABA in their education, training, and competence.

We continue to focus on consumer protection, ensuring all recipients of ABA services in our state access licensed and qualified professionals to address their behavioral health needs.

Mahalo,

Kristen Koba-Burd, BCBA, LBA
Legislative Chair
Hawai'i Association for Behavior Analysis



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Osa Tui, Jr.
President
Logan Okita
Vice President
Lisa Morrison
Secretary-Treasurer
Ann Mahi
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEES ON COMMERCE &
CONSUMER PROTECTION

RE: SB 1340 SD1 - RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS

WEDNESDAY, FEBRUARY 22, 2023

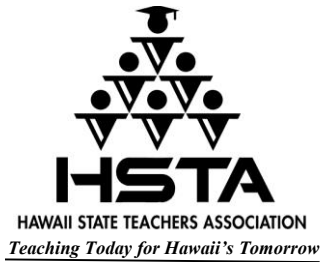
OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Keohokalole and Members of the Committee:

The Hawaii State Teachers Association **supports SB 1340, SD1**, relating to the practice of behavior analysis.

We are in agreement of removing the dates in sections (HRS465D-7; 2), which would remove perceived restrictions imposed on classroom teachers; and (HRS465D-7; 4B), as this provision is already in effect currently for psychologists, whose right to practice was never intended to be infringed upon. HSTA remains in support of licensed psychologists' right to practice applied behavior analysis (ABA), who have ABA in their "education, training, and competence".

However, we do want to remind this committee, that the last time a similar bill was heard in 2019, others tried to insert language into this law asking for an exemption of our special education teachers and we do not agree to any exemption someone may try to insert into this law for our special education teachers, should they try again. They should not be exempt from this additional license to be able to design/create and monitor Applied Behavior Analysis plans. Our special education teachers are able to, as this bill provides currently, only IMPLEMENT these applied behavior analysis plans. Yes, some of their practices overlap, and that is fine and this law does not change that, but they should not be exempt from this licensure law. **When our special education teachers have used their practices and methods, but they are not seeing progress in their students' learning goals, and they need help, they should be allowed to consult outside experts, as determined in an IEP meeting, to assist them.** In this case, they should be able to ask for the services of a Licensed Behavior Analyst (LBA) or psychologist with the appropriate training and credentials. The HDOE receives Medicaid reimbursements for ABA services which are allowable, and teachers, not even SPED teachers, are NOT on that list for reimbursable services. The experts they list that are able to design/create and monitor ABA plans have a specialized license. Yes, some of our teachers do have that license and are Board



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Certified Behavior Analysts (CBAs) and they, of course, may design/create and monitor ABA plans, but the majority of teachers are not CBAs. **Teachers often consult other experts such as psychiatrists, speech therapists, occupational therapists, social workers etc., and we need to. Thus, we also need to be able to consult CBAs or psychologists as well, when our IEP Team decides we need additional help with a student.**

Our special education teachers, of course, may implement Applied Behavior Analysis plans, but they should not be the ones who design/create, nor monitor ABA plans.

Act 199, Session Laws of Hawaii 2015, otherwise known as Luke's Law, established the behavior analyst program within the Department of Commerce and Consumer Affairs and created licensing requirements for behavior analysts. Licensing of behavior analysis services was made concurrent with mandated insurance coverage for diagnosis and treatment related to autism disorders, with which nearly 1,500 public school students are currently diagnosed. Act 205 further clarified the license requirements for behavior analysts. The removal of these dates will ensure that our teachers may implement these ABA plans, under the direct supervision of an Licensed Behavior Analyst or a licensed psychologist who have ABA in their "education, training, and competence", as was the intention of this law.

To ensure our most vulnerable keiki are given the care they deserve, the Hawaii State Teachers Association asks your committee to **support** this bill.



S E A C
Special Education Advisory Council
1010 Richards Street Honolulu, HI 96813
Phone: 586-8126 Fax: 586-8129
email: spin@doh.hawaii.gov
February 22, 2023

**Special Education
Advisory Council**

Ms. Martha Guinan, *Chair*
Ms. Susan Wood, *Vice Chair*

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Amanda Kaahanui, Staff
Susan Rocco, Staff

Senator Jarrett Keohokalole, Chair
Committee on Commerce and Consumer Protection
Hawaii State Capitol
Honolulu, HI 96813

RE: SB 1340, SD 1 – Relating to the Practice of Behavior Analysis

Dear Chair Keohokalole and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Council under the Individual's with Disabilities Act (IDEA) strongly supports SB 1340, SD 1 which helps to ensure timely and appropriate applied behavior analysis (ABA) services for students who need these interventions in order to reach their academic, behavioral and functional goals.

This proposed amendment to Section 465D-7 of the Hawaii Revised Statutes will increase the number of competent personnel to implement ABA services in two important ways: 1) it will make permanent the exemption from the behavior analyst licensing requirements for classroom teachers and individuals working as a classroom teacher while enrolled in a teacher preparation program working toward licensure who are working in direct collaboration with a licensed behavior analyst or licensed psychologist, and 2) it allows registered behavior technicians to work under the direction of either a licensed behavior analyst or a licensed psychologist.

SEAC holds that these changes to the law are necessary to address current staff shortages by expanding the pool of individuals who can implement timely interventions while maintaining the safeguard of having licensed behavior analysts and psychologists conduct the behavioral assessment and design the student behavior plan.

Thank you for the opportunity to provide testimony.

Respectfully,

Martha Guinan, Chair

LATE

SB-1340-SD-1

Submitted on: 2/21/2023 10:16:09 AM

Testimony for CPN on 2/22/2023 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Catherine Orlans	Individual	Oppose	Written Testimony Only

Comments:

As a parent of a child in the DOE with autism spectrum disorder, I do not find this bill an acceptable solution to providing these services that will help my child receive an appropriate education in the eyes FAPE. I also think this is an ethically inappropriate bill to introduce, it basically saying, our overworked teachers should just work harder to provide these services when they aren't really trained to do so in the first place.

Instead, please allow for these BCBA/RBT professionals that exist outside of the DOE to contract their services for access in the school day to support my child's academic learning and IEP in a way that is scientifically proven to help him, by using BCBA's to guide his education. My son is able to get services medically recommended by his doctor for speech and occupational therapy, why not his ABA services? It's a poor excuse that staffing shortages is the reason for this bill when putting the additional task on teachers that also face a staffing shortage. The real excuse for this bill is the cost of these services to the DOE. If this is the real reason behind the bill, then allow parents to fund these contract services out of our own pockets instead.

Some background from a parent's view on ABA; ABA is the only scientifically validated treatment shown to be effective to teach individuals with ASD. In order for students to receive a curriculum based in ABA, the teaching staff must have expertise in behavior analysis. Unfortunately, there is not a lot of integration of ABA principles or how to run a classroom based on the principles of ABA in special education teacher training programs. There are also no requirements for special education teachers to be knowledgeable about ABA in order to teach students with autism. Regardless of educational placement – self-contained, inclusion, or general education – it is important to provide individuals with autism spectrum disorders the proper level of support to be successful. While most self-contained classrooms provide individualized instruction using the principles of ABA with well trained staff and community collaboration, that is not always the case in inclusion or general education classrooms. In these other settings it is equally important to have a Board-Certified Behavior Analyst (BCBA) consulting with teachers and staff. In order to effectively support students in this environment, BCBA's need to allocate time with the one or two classroom teachers to understand where and when the BCBA's help is needed and provide the training and support in a really individualized manner.

Thank you for the opportunity to testify and please reconsider the need for this bill as it seems to be detrimental to FAPE.

LATE

SB-1340-SD-1

Submitted on: 2/21/2023 3:05:35 PM

Testimony for CPN on 2/22/2023 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
James Kilgore	Testifying for Full Life	Comments	Written Testimony Only

Comments:

Aloha Chairs and Committee Members,

Full Life provides home and community-based services for people with developmental disabilities under the Medicaid home and community-based service (HCBS) waiver program 1915c.

We would like to see this bill continue to exempt individuals who implement applied behavior analysis services to participants in the 1915c HCBS waiver for people with intellectual and developmental disabilities. Section 2.6 of the bill appears to sunset the exemption on January 1, 2024. These services provided in this waiver are very similar to the services provided in section 2.5 (Adult foster homes, DD Dom, Licensed care homes, etc.). We would like to see the language "on or before January 1, 2024 removed from section 2.6.

We believe that strategies implemented in a behavior support plan through the HCBS I/DD waiver can be safely and effectively carried out by trained caregivers and direct support workers with proper review and oversight. Due to the difficulty of staffing and the time and cost to become a licensed RBT, we would advocate for continued exemption in the same manner as the caregivers listed in section 2.5.

If the exemption expires on January 1, 2024, many developmental disability providers (including Full Life) would no longer be able to serve participants with behavior support plans through the 1915c HCBS waiver.

Mahalo for your time and consideration.