



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 7, 2014

**GOV. MSG. NO. 1325**

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 7, 2014, the following bill was signed into law:

SB2134 SD1 HD1 CD1

RELATING TO EDUCATION  
**ACT 215 (14)**

*Aloha*  
*Neil Abercrombie*

NEIL ABERCROMBIE  
Governor, State of Hawaii

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# A BILL FOR AN ACT

RELATING TO EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature finds that the United States  
2 Court of Appeals for the Ninth Circuit recently held in *E.R.K.*  
3 *v. State of Hawaii Department of Education*, 728 F.3d 982 (9th  
4 Cir. 2013), that section 302A-1134(c), Hawaii Revised Statutes,  
5 which limits public school attendance to children who are twenty  
6 years of age or younger, violated the federal Individuals with  
7 Disabilities Education Act by denying public education to  
8 special needs students aged twenty to twenty-one.

9 The purpose of this Act is to bring Hawaii's law into  
10 compliance with the requirements of the federal Individuals with  
11 Disabilities Education Act.

12 SECTION 2. Section 302A-101, Hawaii Revised Statutes, is  
13 amended by amending the definition of "exceptional children" to  
14 read as follows:

15 "Exceptional children" includes:

16 (1) Persons under [~~twenty~~] twenty-two years of age who  
17 deviate from the so-called normal person in physical,  
18 mental, social, or emotional characteristics or



1 abilities to such an extent that specialized training,  
2 techniques, and equipment are required to enable these  
3 persons to attain the maximum of their abilities or  
4 capacities; provided that "exceptional children" shall  
5 not include "gifted and talented children";

6 (2) Persons under [~~twenty~~] twenty-two years of age who by  
7 reason of physical defects cannot attend the regular  
8 public school classes with normal children; and

9 (3) Persons under [~~twenty~~] twenty-two years of age who are  
10 certified by a licensed physician eligible for  
11 membership in the state medical society as being  
12 emotionally maladjusted or intellectually incapable of  
13 profiting from ordinary instructional methods."

14 SECTION 3. Section 302A-1134, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16 "(c) [~~No~~] Unless otherwise required by the Individuals  
17 with Disabilities Education Act, 20 U.S.C. 1400, et. seq., no  
18 person who is twenty years of age or over on the first  
19 instructional day of the school year shall be eligible to attend  
20 a public school[~~—If~~]; provided that if a person reaches twenty  
21 years of age after the first instructional day of the school



1 year, the person shall be eligible to attend public school for  
2 the full school year."

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 7 day of JUL, 2014



GOVERNOR OF THE STATE OF HAWAII