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)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

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

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

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

"Exceptional children" includes:

1. Persons under [twenty] twenty-two years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or...
abilities to such an extent that specialized training, 
techniques, and equipment are required to enable these 
persons to attain the maximum of their abilities or 
capacities; provided that "exceptional children" shall 
not include "gifted and talented children";

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

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

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

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

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 Statutory material to be repealed is bracketed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

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

APPROVED this 7 day of JUL, 2014

GOVERNOR OF THE STATE OF HAWAII