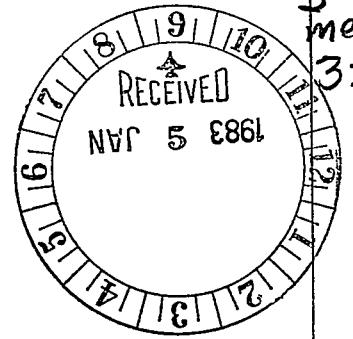


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HAWAII ADVISORY COMMITTEE
to the
U. S. COMMISSION ON CIVIL RIGHTS

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In Re:)
)
CONSULTATION ON PUBLIC)
EDUCATION ISSUES)
)
)

Prince Kuhio Federal Building
300 Ala Moana Boulevard
Conference Room C-270
Thursday, November 19, 1982

Pursuant to Notice, the above-entitled matter came
on for hearing at 10:00 o'clock a.m.

- BEFORE:
- MS. HELEN NAGTALON-MILLER, Chairperson
 - MILTON EBESU, Committee Person
 - CHARLES MAXWELL, SR., Vice-Chairperson
 - AH QUON McELRATH, Committee Person
 - FLORENCE MORINAGA, Committee Person
 - DONNIS THOMPSON, Committee Person
 - ARTHUR CORRALES, Committee Person
 - OSWALD STENDER, Committee Person
 - ROY CROCKER, Committee Person
 - RAI SAINT CHU, Committee Person

REPORTED BY:

MARIE K. SMITH
Court Reporter

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PROCEEDINGS

1
2 MS. NAGTALON-MILLER: Good morning. This meeting of
3 the Hawaii Advisory Committee to the United States Commission
4 on Civil Rights will now come to order.

5 We are convened here today to hear comments on the
6 delivery of public educational services in the state of
7 Hawaii.

8 I am Helen Nagtalon-Miller, chairperson of the Hawaii
9 Advisory Committee. The Advisory Committee receives informa-
10 tion and makes recommendations to the Commission in areas
11 which the Committee or any of its subcommittees is authorized
12 to study.

13 Other members of the Committee in attendance during
14 the meeting will be Milton Ebesu, Charles Maxwell, Sr.,
15 Ah Quon McElrath, and I think during the day some of these
16 other members will be coming in and out.

17 Also with us today are staff from the Commission's
18 western regional office, including Jeffery Wallace, field
19 representative, and Grace Diaz.

20 This consultation is being held pursuant to Federal
21 rules applicable to state advisory committees and regulations
22 promulgated by the U.S. Commission on Civil Rights.

23 The Commission on Civil Rights is an independent agency
24 of the United States Government established by Congress in
25 1957 and directed to: (1) Investigate complaints alleging

1 that citizens are being deprived of their right to vote by
2 reason of their race, color, religion, sex, age, handicap,
3 or national origin, or by reason of fraudulent practices;
4 (2) study and collect information concerning legal develop-
5 ments constituting discrimination or a denial of equal
6 protection of the laws under the Constitution because of
7 race, color, religion, sex, age, handicap, or national
8 origin, or in the administration of justice; (3) appraise
9 Federal laws and policies with respect to discrimination or
10 denial of equal protection of the laws; (4) serve as a
11 national clearing house for information about discrimination;
12 and (5) submit reports, findings, and recommendations to the
13 President and Congress.

14 I would like to emphasize that this is a consultation
15 and not an advisory proceeding. Individuals have been
16 invited to come and share with the Committee information
17 relating to the subject of today's inquiry. Each person who
18 will participate has voluntarily agreed to meet with the
19 Committee.

20 Since this is a public meeting, the press and radio
21 and television stations, as well as individuals, are welcome.
22 Persons meeting with the Committee, however, may specifically
23 request that they not be televised. In this case, we will
24 comply with their wishes.

25 We are concerned that no defamatory material be

1 presented at this meeting. In the unlikely event that this
2 situation should develop, it will be necessary for me to
3 call this to the attention of the persons making these
4 statements and request that they desist in their action.
5 Such information will be stricken from the record, if
6 necessary. If the comments a person is offering, however,
7 are of sufficient importance, the Committee will hear the
8 information. In that event, the persons against whom
9 allegations are made will have ample opportunity to respond
10 by making statements before the Committee or submitting
11 written statements, if they desire.

12 Every effort has been made to invite persons who are
13 knowledgeable in the areas to be dealt with here today. In
14 our attempt to get a well-balanced picture about education
15 issues, we have invited members of the Hawaii Department of
16 Education, as well as community organization representatives
17 and concerned individuals. In addition, we have allocated
18 time this afternoon at four o'clock p.m. to hear from anyone
19 who wishes to share information with the Committee about the
20 delivery of public education services in Hawaii. At that
21 time, each person or organization will have five minutes to
22 speak to the Committee and may submit additional information
23 in writing. Those wishing to participate in the open session
24 must contact Commission staff before four o'clock p.m. today.

25 I think we have today some people who are ready to

1 make some statements. So I will call on Dixie Padello.
2 She is the coordinator of Waianae Coast School Concerns
3 Coalition.

4 MS. PADELLO: Thank you. I will read my statement so
5 that we don't leave anything important out.

6 Chairman, members of the Commission, my name is Dixie
7 Padello. I am here to testify on behalf of the Waianae
8 Coast School Concerns Coalition. The coalition has long
9 had a number of concerns and questions about the affirmative
10 action plan of the Department of Education.

11 The most recent affirmative action plans for women and
12 for minorities were written for the year July 1, 1976, to
13 September 30, 1977. They have not been revised since.

14 Each year, the department has prepared an annual
15 progress report. As we reviewed the report for 1981-82,
16 we found essentially no change from the base year 1976-77,
17 especially for minorities. This fact leads us to the
18 question whether the affirmative action objectives in the
19 plans were carried out with the dedication necessary to be
20 effective, and, indeed, whether those objectives were
21 adequate to begin with. We submit that in five years, there
22 should have been significant progress.

23 We have other concerns that go beyond the questionable
24 performance of the department's affirmative action efforts
25 over the past five years. The following comments are

1 addressed to the affirmative action plan for minorities.

2 The plan for minorities is based on the 1970 census
3 data, leading to serious distortions in the percentages of
4 the population that are allocated to each ethnic group.
5 Hawaiians, for example, are described as making up about
6 nine percent of the population; in fact, they comprise
7 nearer 18 percent.

8 The plan finds that Filipinos are the only under-
9 represented minority in the Department of Education. In
10 fact, Hawaiians are also under-represented.

11 For Hawaii, census data have traditionally been
12 considered less accurate than the statistics compiled by
13 our Department of Health. We suggest that the Department
14 of Education, like most other State departments and agencies,
15 use Department of Health and other locally available data
16 to determine the ethnic populations of our state. Failing
17 this, at the very minimum, a new plan should be devised,
18 based on 1980 census information. We would point out that
19 there is no requirement that census data be the statistical
20 basis for the plan.

21 We also question the present practice of treating the
22 entire State education system as a single entity in the
23 preparation of the plan. The use of state-wide population
24 figures as a basis for preparing the plan washes out some
25 very real inequities. At the present time, teachers are

1 hired by individual schools and each district office has its
2 own personnel office where a teacher must register in order
3 to be considered for hire in that district. For the most
4 part, teachers would seem to prefer to teach in the district
5 in which they reside. District staff has said that teachers
6 do not, as a rule, register with districts that are far
7 removed from their homes.

8 The policy of considering the state to be a single
9 district in formulating the plan also ignores the fact that
10 ethnicity is a significant determinant in a person's choice
11 of where he/she wants to live. Census data will bear out
12 our contention that a single ethnic group tends to dominate
13 in many neighborhoods.

14 We believe that the geographic unit upon which to base
15 an assessment of whether teachers are being hired in pro-
16 portion to the occurrence of their ethnic group in the
17 population should be the feeder complex. At the very
18 minimum, we believe that the intent of the law requires that
19 this assessment be made independently within each DOE
20 district within the state.

21 Another problem area is the allegation by some aspiring
22 teachers that past practices of selecting substitute teachers
23 work against under-represented minority teachers being hired.
24 It is alleged that school personnel call persons who are
25 known to them to serve as substitutes. These substitutes,

1 many of whom are long-term, get substantial experience in
2 the school system as a result of this connection. When a
3 position becomes vacant, these experienced substitutes are
4 adjudged significantly more qualified than the teacher from
5 an under-represented minority. We feel that such a system
6 would violate affirmative action objectives; we also feel
7 that you would agree that such a practice would be incompati-
8 ble with a just and equitable system of hiring. We very
9 much appreciate the opportunity to share our concerns with
10 you today. We believe that the children of our community
11 would be better served if the ethnicity of the teacher
12 population were to more nearly approximate that of the
13 community.

14 The other major area about which we wish to comment
15 is that of the academic performance of children as it is
16 related to the ethnicity of those children.

17 Even the most cursory examination of SAT test data
18 reveal a strong correlation between ethnicity and academic
19 achievement. This has been so widely publicized that it
20 scarcely needs repeating.

21 Attached to our testimony is a graphic display of the
22 Stanine distribution of test scores at Waianae and Nanakuli
23 High Schools. Each dot represents a student. As you can
24 see, the children in this predominantly Hawaiian community
25 score in the lower Stanines. And for years, the results have

1 been substantially the same.

2 The coalition -- and many experts -- believe that there
3 are important cultural differences in how children learn.
4 When our children are denied a culturally appropriate
5 learning environment, they may well be denied equal oppor-
6 tunity to an education. They may be denied the opportunity
7 to become bi-cultural -- that is, to become self-supporting
8 individuals able to operate effectively in the dominant
9 culture while retaining what they value in their own
10 culture.

11 The problem is clear. We urge that the Commission
12 recommend the formation of an implementation task force that
13 would systematically institute programs that would meet the
14 needs of Hawaiian and other minority children.

15 MS. NAGTALON-MILLER: Thank you very much. Are there
16 any questions from the Committee members here?

17 MR. MAXWELL: Thank you, Madame Chairman. I just
18 want to comment on your last paragraph. By asking this
19 Commission to formulate a task force, are you saying that
20 this task force would then look into the problems that we
21 are faced with pertaining to our children, basically in the
22 Waianae Coast, or --

23 MS. PADELLO: Other similar areas, yes.

24 MR. MAXWELL: -- areas of Keanae, or Hana, or Kona in
25 the outside islands?

1 MS. PADELLO: (Nods head up and down.)

2 MR. MAXWELL: Hasn't there been studies made as to
3 what the problems -- done by the Department of Education?
4 Are you aware?

5 MS. PADELLO: There have been many studies by the
6 University of Hawaii, primarily made on how Hawaiian children
7 learn. Other than the current Hawaiian studies programs,
8 there has been no real substantial programs implemented.

9 MR. MAXWELL: What I am trying to get is that by
10 creating this commission, we wouldn't be duplicating work
11 that has already been done, would we?

12 MS. PADELLO: No. What you would do is encourage that
13 the work that has already been done be expanded or be --

14 MR. MAXWELL: Implemented?

15 MS. PADELLO: Yes; implemented; because there has been
16 a lot of studies already. Aloliki. University of Hawaii.
17 Different departments.

18 MR. MAXWELL: Have you tried to ask the Education
19 Department to implement some kind of a program to take care
20 of the needs that have been investigated by Aloliki and all
21 these other agencies?

22 MS. PADELLO: Many times. And one in KEEP, Kamehameha
23 Early Education Program, and they, up until recently, were
24 on a research basis, and they will not go into a school
25 where they are not asked or where teachers do not volunteer.

1 And there hasn't been too much encouragement on the Depart-
2 ment of Education's part to expand it further.

3 We have talked to Dr. In, at the university. He says
4 that when the teachers are in training, they don't have time
5 to teach them how to teach in multi-cultural settings. They
6 say they leave that up to the Department of Education.

7 The Department of Education says "Well, we can't do it
8 because of teacher contracts."

9 So, you know, it is just caught between a rock and a
10 hard stone.

11 MR. MAXWELL: Thank you.

12 MS. MCEL RATH: I would like to direct a question.
13 Can you tell me whether or not there have been any major
14 efforts made to change the affirmative action program as per
15 some of the kinds of actions which you have made?

16 For example, I am interested in the statement "We
17 submit that in five years there should have been significant
18 progress." Other than using data which is more up to date,
19 I wondered whether your group had discussed changing --

20 MS. PADELLO: In checking into it, we checked with the
21 Department of Education. We have gotten their most up to
22 date report. They haven't had a meeting of their affirmative
23 action committee for at least two years. I think since 1979.
24 We asked. We found that out by asking for their -- the most
25 recent minutes. We -- the affirmative plan, as we stated,

1 clearly shows that it is updated. So we would like to see
2 a recommendation on your part to get moving on it. Update
3 it. And to look at it as maybe not a State complex -- you
4 know, break it down to maybe a district or maybe a feeder
5 complex, even.

6 MS. MCEL RATH: So what you are proposing is that there
7 be part of an affirmative action program which would reflect
8 the ethnic composition of, let us say, a place like Kalihi,
9 Palama, or --

10 MS. PADELLO: Right. Because we know that the State
11 statistics, you know, it is an average. And no way does it
12 show, you know, what is realistically happening in different
13 communities.

14 MS. MCEL RATH: One other question I wanted to ask, and
15 that was this: Does your group have information which would
16 show whether or not some of the kinds of alternative
17 educational modes -- has your group shown that in fact the
18 particular alternative methods have had a big impact on the
19 SAT scores to which you allude?

20 MS. PADELLO: Yes. I think key studies show that.
21 The marine studies, Kamehameha School did the independent
22 evaluation of that, and those evaluations show that they did
23 have an impact on those students that were involved.

24 MS. MCEL RATH: I wondered, Madame Chairman, whether or
25 not we might have access to those copies of evaluations,

1 because she raises a very significant point about whether
2 or not alternative modes might be one of the ways in which
3 to take care of some of the problems that you talk about in
4 terms of ethnicities and perhaps we can get some of those
5 evaluations.

6 MS. NAGTALON-MILLER: I am sure they are available.
7 It is a matter of getting them available.

8 MR. WALLACE: I have a question. The Hawaii school
9 district has set up its school advisory councils with
10 appointments by the Governor for each of Hawaii's seven
11 school districts. These councils serve in an advisory
12 capacity to the Board of Education and members of the Board
13 for their respective school districts. Each of the councils
14 is responsible, and I will name some of the things they
15 are responsible for. And I would like you to respond and
16 actually see if these things are happening in your district
17 -- and these are Governor appointees.

18 Each advisory council is responsible for informing the
19 Board of Education on educational matters of interest to the
20 school district; disseminating information and interpret
21 policies of the Board to the people of the school district;
22 acting as advisory bodies to the superintendent of each
23 school district, including obtaining public reactions,
24 presenting and explaining local and school concerns and
25 policies and administrative regulations to the DOE; working

1 with other school districts to insure cooperation on
2 educational matters of mutual interest and concern.

3 Now, the Waianae is which school district?

4 MS. PADELLO: Leeward.

5 MR. WALLACE: Leeward school district? Are you aware
6 of the Governor appointee that is -- that was appointed to
7 do these things for your school district?

8 MS. PADELLO: Through research, we found out who it
9 was. There has been literally no feedback to the community.
10 The meetings that we have attended were, you know, the last
11 one I attended, there was only the chairman there.

12 MR. WALLACE: Okay.

13 MS. PADELLO: In fact, the last one was when they had
14 the Board of Education out, and there were no advisory
15 council members there, and they were the sponsoring group
16 of the meeting.

17 MR. WALLACE: So basically, the person that has been
18 appointed by the Governor to work with the school district,
19 to take your concerns from the community to the Board of
20 Education -- that chain of information is not flowing as
21 well as you would like?

22 MS. PADELLO: That's right. It is my understanding
23 they are in the process of appointing new people. And I
24 have heard some of the names that have come up, and if these
25 people are appointed, there is more of a possibility of

1 feedback.

2 MR. WALLACE: Okay. We would perhaps like some
3 suggestions from you in terms of, maybe not at this point
4 but in future correspondence, of maybe a more feasible way
5 to insure that the Governor appointee actually serves the
6 needs of the district that they are appointed from.

7 MS. PADELLO: Sure. Okay. Thanks.

8 MS. McELRATH: May I ask one other question along
9 those lines?

10 Has any member of the SAT of that district gotten in
11 touch with your Waianae concerned parents about some of the
12 needs which you have shown and which has been given fairly
13 wide publicity?

14 MS. PADELLO: It has been at our initiative.

15 MS. NAGTALON-MILLER: Are there any more questions?

16 MR. MAXWELL: Well, yes. Something I would like to
17 ask you now. Okay.

18 We are the civil rights advisory committee, so would
19 you say that the children in your area have been actually
20 deprived of an equal opportunity to learn, or -- or to catch
21 up with the rest of society, as some of your statements have
22 been made?

23 MS. PADELLO: I would say that, yes.

24 MR. MAXWELL: You would say that? Thank you.

25 MS. NAGTALON-MILLER: Any more questions? Okay.

1 MR. WALLACE: I would like to take a five-minute recess
2 so they can set up the intercom.

3 MS. NAGTALON-MILLER: Okay. A five-minute recess.
4 Thank you, Ms. Padello.

5 (Brief recess.)

6 MS. NAGTALON-MILLER: As chairperson of the Committee,
7 I would like to reconvene the consultations. For those of
8 you who just came in, maybe I would just like to repeat that
9 we are here to gather information. It is a consultation.
10 And we are interested in getting information that might
11 help us to file a report later on. And this is, therefore,
12 a consultation, and not an adversary proceeding.

13 I would like to call on Mrs. Stewart, who has something
14 to present.

15 MRS. STEWART: Thank you. I would like to read a
16 statement here in order to seem organized.

17 MR. WALLACE: First, your name and organization.

18 MRS. STEWART: My name is Pamela Stewart. I am at
19 present a senior at the College of Education at the Univer-
20 sity of Hawaii. I am also a member of CESA. CESA is the
21 College of Education Student Association.

22 I just recently wrote this to Jeff to let him know
23 why I am here today. As I stated before, I am a student at
24 the University of Hawaii, a senior in the College of
25 Education. Next semester I intend to do my student teaching.

1 On Tuesday, November 9th, 1982, the College Association
2 invited Dr. Donnis Thompson to an informal reception at the
3 university. At this time, I spoke with Dr. Thompson in
4 regards to my concern of affirmative action and civil rights
5 in the DOE. It was the suggestion of Dr. Thompson that I
6 come and attend this meeting and possibly make a statement.

7 I felt that my present position would be to pretty
8 much listen and then become informed in order to make any
9 statements. My first question would be what type of
10 employment opportunities are available for Blacks in the
11 DOE. My understanding of this is that the majority of jobs
12 are held by Japanese. I wanted to know if this was true.

13 According to some of the research that a former
14 spokesperson today mentioned, out of 9,255 members in DOE,
15 5500 are Japanese, and 35 are Black. My future plans and
16 goals would be to stay in Hawaii and be a teacher here in
17 secondary speech. I have been in Hawaii since June of 1980,
18 and as a lot of people have, I have fallen in love with it.
19 My husband and I are very happy here. We enjoy the
20 atmosphere. I enjoy the education privileges and promotions
21 that are here for me. I feel that the way things are right
22 now, that the affirmative action needs to be updated. The
23 situation today, I have been informed, that in 1985 will be
24 the first opening. In other words, to look forward to, as
25 a future employee of the DOE, I feel that 1985 is a long

1 time to wait. I believe there is a lot of people waiting.
2 They are in line, and I think I am a pretty reasonable
3 person when it comes to my future goals. I look forward to
4 fulfilling my requirements at the university and becoming
5 qualified to be a member of the DOE. But it is almost a
6 disadvantage being Black, being female, and being physically
7 handicapped.

8 I have a 30 percent disability, which to some people
9 would be cosmetic, but it does qualify me for some things
10 as far as Department of Vocational Rehabilitation. One of
11 the things I was hoping to write on my resume is that I am
12 a woman, I am physically handicapped, and therefore they
13 can hire one person in place of three. I think if I want to
14 be reasonable and logical, I have to use all of my possible
15 resources in order to get a job. And it is almost -- it is
16 really disappointing to me that I have to go to those tactics.
17 But I want a job. And I want to teach. And that has been
18 my goal for as long as I can remember.

19 I think each and every person who is a member of the
20 College of Education at present is discouraged. They are
21 being encouraged to go elsewhere. We hear on the news by
22 Don Nugent that there really isn't anything. And we are
23 sorry. Sorry doesn't get me a job. And it doesn't explain
24 five years I have put into my education.

25 I have two children and a husband, and they have -- I

1 won't say they have suffered a great deal, but they have
2 stood second to my education.

3 I feel that my education is one of the most important
4 things I have going for me. As I grew, my parents have
5 always told me, "No one can take away your education," and
6 that is one of the proudest things I have, is my education.

7 And I would like to pass this attitude on to future
8 students. I think students today need to feel there is
9 something to look forward to.

10 The College of Education Students Association is
11 trying to meet those needs. Its general purpose is to
12 enhance the personal and professional growth of students of
13 the College of Education, and those preparing to enter the
14 work field. Its specific purposes and goals are: to
15 introduce pre-education students to the College of Education;
16 to serve as liaison between the administration and the
17 students of the College of Education; to provide activities
18 which promote fellowship among the students in the College
19 of Education; to aid the University of Hawaii, the College
20 of Education, and the community, through service projects;
21 and develop student services for the student in the College
22 of Education, as well as pre-education students.

23 One of these services that the university has provided
24 for us through the liaison is the DOE luncheon for the
25 Department of Education superintendent and district

1 superintendents which was held November 9th. At this time
2 is when I met Dr. Donnis Thompson.

3 One of the other functions of the DOE -- excuse me,
4 of the College of Education Student Association -- is to have
5 workshops for students. We have had seminars and workshops
6 for students teaching on classroom management. These were
7 held recently, and I think they have been a great benefit to
8 those who have attended. And I would like to thank the
9 Committee for listening to my statement and hope they will
10 take them into consideration.

11 MS. NAGTALON-MILLER: Thank you, Mrs. Stewart.

12 Are there any questions from the Committee or the
13 staff?

14 Thank you.

15 MS. McELRATH: Your coming here obviously indicates
16 a great concern as to whether or not as a woman, as a Black,
17 as a handicapped person, there would be opportunities for
18 you in the teaching profession, based on the figures which
19 are available to you. Do you feel that Blacks who do have
20 the credentials to teach have been discriminated against as
21 far as hiring at the DOE is concerned?

22 MRS. STEWART: I believe so, yes.

23 MS. McELRATH: Do you have any specific examples that
24 can be brought to the attention of the Committee?

25 MRS. STEWART: My understanding is that the DOE feels --

1 okay. In the fall of 1980, we had a spokesperson, I can't
2 remember her name, in one of my classes who told us that
3 Blacks are not considered a part of the populace, as they
4 are transient -- mostly military. And I felt at that
5 point -- I felt there was some sort of discrimination there,
6 because I myself am a civilian. My husband is military.
7 And I feel that I am entitled to as much of an opportunity
8 to a job on an individual basis as the next person. I don't
9 feel that I should be told that the transient position of
10 my husband will dis-enable me to teach. I feel that as an
11 individual, if I choose to stay in Hawaii and teach and my
12 husband moves on, that is between us. And we will make
13 that decision.

14 At the present time, my husband is leaving for nine
15 months, and as you know, military personnel travel quite
16 often -- 45, 60, 90 days at a time, sometimes a year. And
17 I think it doesn't disable me to teach. It enhances me in
18 the sense that if I have a stable position, I can support
19 my family. If my husband is off for 45 days or a year and
20 something happens to him, I don't want to spend the rest of
21 my life counting on his disability or his death gratuities.
22 I would like to feel that I am supporting my family through
23 my own means, and also through my own opportunities. And I
24 think that it is almost -- it is almost discrimination
25 against me personally.

1 But the Army doesn't help me in the sense of my
2 future, of my job, of my capabilities. I have to do that
3 on my own.

4 MS. McELRATH: Did she indicate that it was a policy
5 of DOE or of State government that because you were, quote,
6 "a transient person," unquote, that there would be a risk
7 in hiring a qualified person to teach in the Department of
8 Education?

9 MRS. STEWART: I don't believe that she specifically
10 said that, no.

11 MS. McELRATH: Did you get the feeling that it was
12 an implied policy?

13 MRS. STEWART: Yes, I did.

14 MS. NAGTALON-MILLER: Any other questions?

15 I think it would help the Committee if you know of
16 specific cases that you should submit more details about the
17 situation. It would help the Committee if you could give
18 us some information.

19 MR. WALLACE: We would also like your mailing address.

20 MRS. STEWART: 4924A Kaena Loop, and that is 96786,
21 in Wahiawa.

22 MR. MAXWELL: I would like to add in, if you do come
23 across with any information, please feel free to write to us.
24 It still can be submitted into this hearing.

25 MRS. STEWART: Okay.

1 MS. McELRATH: Madame Chairman, I think just an
2 additional comment: I think it ironic that there would be
3 an implied position on the part of DOE when in fact, in the
4 last legislative session, with the proposed impact aid cuts
5 instituted by the Reagan budget, that in fact one of our
6 legislators had said that what we should do -- and introduced
7 a bill saying that we should charge the Pentagon for the
8 education of the children of military personnel. And it
9 seems to me that what is the quid pro quo in this, obviously,
10 since we get more than \$16 million, is to offer the opportu-
11 nities for those people to be employed in the state of Hawaii.
12 But I find it somewhat ironic that we would take that kind
13 of stance in one section of State government and not take a
14 commensurate stand in another, in the executive branch of
15 State government, as it were.

16 MS. NAGTALON-MILLER: Any more questions?

17 MR. EBESU: Not a question, but for my own information,
18 how much of this might be related to State residency
19 requirement?

20 MS. McELRATH: I don't believe there are any residency
21 requirements. Those were ruled unconstitutional.

22 MR. MAXWELL: That's right.

23 MS. NAGTALON-MILLER: Thank you very much.

24 MRS. STEWART: Thank you.

25 MS. NAGTALON-MILLER: I think we could now have Mrs.

1 Iva Lee Sinclair.

2 MS. SINCLAIR: It is a delight to be here, and I thank
3 you for an opportunity to testify before you today.

4 The focus of my testimony will be on Public Law
5 94-142, and the impact of the proposed regulations and the
6 current status as far as handicapped children are concerned.
7 And some concerns about 504, which is the discrimination for
8 the handicapped law. Both of those laws are a risk.

9 As you are probably aware, Public Law 94-142 was
10 passed in 1975, as the Education Act for all handicapped
11 children, and has as its purpose to provide for an equal
12 opportunity for handicapped children to learn, commensurate
13 with the maximum ability of that child, based on his poten-
14 tial and unique needs.

15 The law has been in effect for, in its totality,
16 for two years now, and had a gradual impact over a six-year
17 period of time. We still have not seen all of the results
18 of this law, but what we have seen as a result of it is a
19 marked increase in services for handicapped children
20 throughout the state and throughout the nation.

21 And the law itself, and the language of the law, the
22 Federal Register with the specifics it has in it are, in
23 my view, the heart of what has made the law work. The
24 present language spells out how the services are to be
25 delivered, the time lines by which they must be delivered,

1 definitions -- very specific terms.

2 The proposed language that was given by the Federal
3 Department of Education on August 4th, 1982, is a marked
4 contrast to that, and I am gravely concerned about that.
5 The tone of the previous and present regulations is that we
6 must provide whatever that child needs, without regard to
7 cost, and it must be based on the unique needs of the child.
8 The focus is on the child and the parent, the partnership.

9 The proposed regulations of August 4th reversed that
10 trend, in my view, and the reversal is towards the Department
11 of Education. That is not only in Hawaii, but across the
12 nation. Historically, departments of education have
13 provided what is minimal, not what is appropriate. The
14 change in focus reverses us back to what we had, as far as
15 I am concerned, many, many years ago. We are going back to
16 the dark ages, if these proposed changes are accepted.

17 Hawaii had a model law in 1949, and yet we were not
18 able to get services for our handicapped children in our
19 schools until the Federal regulations of August 23rd, 1977,
20 came down, in spite of the fact that we had litigation for
21 four years to see that services were provided.

22 The proposed regulations, as I have indicated, give
23 much of the direction, control, responsibility back to the
24 Department of Education. It is my view that that is
25 inappropriate. It removes the responsibility and the

1 partnership from the parent, and gives it back to the State.

2 The basic flaw in the proposed regs is that. My
3 feeling is that the protest from advocacy groups and from
4 people across the nation has been very, very overwhelming.
5 I think that this has been substantiated by the November 3rd
6 Federal Register in which the Federal Department of Education
7 removed the most -- six most controversial areas, those of
8 parental consent and parental involvement that were most
9 controversial at the state hearings.

10 That does not then address the problems that we have
11 with the balance of the regulations. The position of HHCLD
12 and a task force of individuals in the state of Hawaii
13 working for the total withdrawal of the proposed regulations
14 is that the -- that the total proposed regulations should be
15 withdrawn. We should go back to the drawing board and deal
16 with the problems that we have with the present regulations,
17 clarifying areas where there are difficulties and where there
18 are substantive matters of implementation.

19 The law itself is not the problem. It is how people
20 interpret or use the law. We will more than welcome an
21 opportunity to be involved in refining the present regula-
22 tions and clarifying areas where there are difficulties.
23 I think that in light of the corrections, which was for two
24 purposes -- to cut down on unduly burdensome tasks of state
25 departments of education while at the same time providing

1 free, appropriate public education -- is simply not possible.
2 There is a dichotomy in that, and the language of the
3 proposed regulations deals with "reasonable." "Reasonable"
4 is not spelled out. Terms such as "substantially
5 ascertainable," that is not spelled out. Both of those
6 terms are open to a lot of difference of interpretation,
7 and when you have language that is not specific in any
8 mandate, it is then subject to a great deal of abuse and
9 controversy.

10 This would not cut down on unduly burdensome tasks.
11 Rather, it would increase them.

12 So it is not -- the proposed language does not meet
13 the purpose for which it was set out to do. The Federal
14 Congress recognized this and passed a resolution which
15 mandated that any proposed -- final proposed regulations
16 would have to come back before the Federal Congress when
17 it was in session, for a 45-day period of review.

18 I have just learned that the Federal Department of
19 Education is going to be publishing another set of proposed
20 regulations based on the analysis of the present regulations
21 sometime next spring. And we will have another 45-day period
22 of review, so that those of us in the community that have
23 worked very hard for the total withdrawal in a way have won
24 the battle.

25 The issue then becomes what is wrong with the proposed

1 regulations, and what things would we not accept, and what
2 things would we like to be retained. And I will attempt to
3 address that in the next few minutes.

4 The proposed language gives the Department of Education
5 the responsibility of developing assurances, rather than
6 compliance. To me, there are two very major techniques or
7 two very major differences in the words.

8 "Assurances" means I assure you that I am doing it.

9 "Compliance" means that I am doing it because I have
10 submitted data that documents that I am doing it. I am
11 responsible for monitoring to assure -- to prove that I
12 am doing it.

13 That is a very major shift in the proposed language.
14 I do not think that we are ready to accept that. I see that
15 as a step backwards. That would allow us to go again to
16 what is minimal, and minimal is whatever you have to do,
17 based on what you have to comply with.

18 So what we have now is minimal, not maximal. And going
19 back to assurances would be a regression backwards. I think
20 that throughout the regulations there are references to
21 other laws, and if you are not familiar with the language
22 of those laws, you really don't know what the regulations
23 are saying. All of these other regulations are less specific
24 than 94-142 regulations and do not provide the same
25 protections.

1 Additionally, 504 is under a great deal of scrutiny,
2 and for the past two years has been threatened with re-write,
3 and it too is being threatened to be essentially scuttled.

4 If you take away those protections and yet have those
5 referred to in these regulations, you have essentially taken
6 away all the guarantees that 94-142 provides, because you
7 have no backup left. You have no way -- no recourse to deal
8 with discrimination or inappropriate services, based on a
9 discrimination basis.

10 Throughout the regulations -- the present regulations
11 -- time lines are spelled out. When a child is identified,
12 an IEP, individual educational plan, must be provided within
13 30 days. That guideline is gone, although the sections have
14 been withdrawn. Present proposed regulations do not make it
15 clear how they interact with the total regulations. They
16 have come up with pieces and they have withdrawn pieces,
17 and what comes back is still an incomplete document where
18 some definitions have been omitted. So you don't know
19 exactly what it is you are dealing with. So it, from my
20 view, is more of a mess than it was before. So it is more
21 confusing. Time lines being one of those issues.

22 Time lines -- we need to have a national standard for
23 services for handicapped children for two reasons, and I
24 think the previous speaker spoke about the military people.

25 We have a lot of military people in Hawaii that move

1 a great deal. If you don't have a national standard so
2 there is some assurance not only for local delivery of
3 service but for people who move, you are therefore providing
4 a disservice if you change that standard or decrease it or
5 allow a difference in time lines from state to state, from
6 county to county.

7 In Hawaii, we have a state-wide system so the time
8 lines are the same throughout the state. In California or
9 Florida or Michigan on the Mainland, there are many counties.
10 Under the proposed language, each county could decide when
11 its time line would be, so that if you even moved from one
12 neighborhood to the other, the services could be markedly
13 different.

14 We are a mobile society. People move a great deal.
15 So it is our view that the time lines need to be spelled out.
16 And they should be kept with what they are at the present
17 time.

18 There are some areas where time lines constrict
19 themselves, and we would certainly support clarification of
20 time lines when it comes to how long it takes to have a
21 child be placed. The Federal regulation does not deal with
22 that. The consent of notice to the parent has been with-
23 drawn, and again, that is an area that is confusing, because
24 some of the major definitions have been omitted in the
25 revised regulations. Again, we go back for total

1 withdrawal -- let's go to the language which spelled out
2 very quickly what information the parents must be given in
3 order to understand what action has taken place. If you
4 leave out the definition of consent and prior notice, even
5 though you put that obligation back in, you essentially
6 castrate that section of the law.

7 The present regulations require that a child be
8 re-evaluated every three years. The proposed language leaves
9 that open to the State. The value of re-evaluating every
10 three years is that children are not lost through the cracks.
11 There is less risk of that under the present regulations
12 where a re-evaluation is required than there would be if it
13 was left to the five-year time lines.

14 The evaluations are presently required to be done by
15 a multi-disciplinary team which must be qualified and which
16 must use validated testing. The proposed regulations delete
17 the qualifications. The person is assured of being trained.
18 That is again a very major difference. The problem we have
19 in Hawaii with multi-disciplinary team and evaluations and
20 the reason I feel it is strongly needed, we have a lot of
21 ethical differences and cultural differences in our state
22 that makes us unique. We have many people from different
23 countries coming to our state to live and in need of
24 educational services. If you don't have people on that team
25 who are not only qualified but who are aware of ethical

1 differences and are able to utilize those differences in the
2 evaluation of children, you are going to be mislabeling
3 some children and providing a disservice to those children.
4 I think it is more apparent here than it is in any other
5 state, because of our multi-cultural ethical background and
6 the need to be cognizant of cultural differences.

7 A team approach cuts down on the possibility of this
8 more so than having just one person being responsible for
9 the evaluation, which is what the proposed regulations
10 support.

11 The other area of major concern, I think, has to do
12 with simple definitions that have been changed.

13 Handicapped child is changed -- the term "handicapped
14 child" is refined and the child is defined based on his
15 performance, in the present regulation. The proposed
16 regulation would deal only with his education. We have
17 some children who are not able to function in educational
18 settings as a normal child. Multiply- and severely-
19 handicapped -- if you use education as a term, would you
20 then be omitting these children? That is a question we
21 are asking. We are not sure.

22 The present regulations provide for a five-day exchange
23 whenever there is an administrative -- rule 49 is our rule
24 for a due process hearing. The present regulations spell
25 out very clearly the rights of handicapped children and

1 their parents under the due process. A fact not well under-
2 stood is that the departments of education have that same
3 right. There were two areas under this that I am concerned
4 about.

5 One is the five-day disclosure. There is not require-
6 ment in a rule 49 hearing that you exchange documents five
7 days ahead of time. So under the present proposed language,
8 you would go to the hearing and exchange your documents,
9 and then for the first time have that information in front
10 of you. You would not be able to prepare for it. If I have
11 the information five days ahead of time, I can review it.
12 I can come up with a sense of what kind of things I need to
13 be able to counter; what I need to be able to defend; what
14 I have to be able to support. And that is the purpose of
15 the documents and witnesses in a rule 49 hearing. That, to
16 me, is a major flaw.

17 The other area in this section of the law is an
18 extension of time lines from 45 days to 60 days. I do not
19 feel that that is necessary. The child remains in whatever
20 setting he is in, and if he is in an inappropriate setting,
21 an extension of time lines is not in the best interest of
22 the child.

23 The present language allows for negotiation. You can
24 extend that by mutual agreement. So if it is really critical
25 that the child's due process hearing be speeded up, you can

1 do that. And you can still have that happen in a shorter
2 period of time.

3 Extending it to 60 days expands the time line in which
4 you have to operate.

5 Under that area, also, we have independent evaluations.
6 The present language provides that whenever there is a need
7 for an independent evaluation, it is done at public expense,
8 at no cost to the parents. The proposed language shifts the
9 burden from the parents -- from the department of education
10 back to that of the parents by virtue of the fact that under
11 the August 3rd regulations, the parents would have to go to
12 hearings to prove why they needed an independent hearing,
13 and you -- an independent evaluation. You need the
14 independent evaluation to prove what the child's disability
15 is, for example.

16 So if you don't have that option except to go to
17 hearing, it is going to be very hard for you to prove that
18 at the hearing without some additional information.

19 Presently, if there is a disagreement, the department
20 of education is required to provide an independent evalua-
21 tion at no cost to the parent. And it must be through an
22 independent source. If the department feels strongly that
23 that is not appropriate, they have the right to take the
24 family to hearing to prove that an independent evaluation
25 should not be done. Again, the shift is back to the State,

1 away from the child and from the parent.

2 Since my association is one that works with children
3 with learning disabilities, I have several major concerns
4 in the area of learning disabilities.

5 They have put L.D. as a controversial field at best,
6 because it doesn't mean the same thing to everyone. It is
7 a field filled with professional differences. So they have
8 added a fifth criteria which is an exclusionary criteria
9 and says that a child is not learning-disabled if the
10 discrepancy between his potential and his achievement is
11 due to a lack of instruction, a lack of motivation, a delay
12 in development factors external to the child.

13 There are five elements. I have only given you four,
14 but there are five, and I find that these would be totally
15 impossible for us to administer from the field. You could
16 not -- there is no test known. There is no vehicle -- no
17 amount of effort that I know of that would allow you to make
18 this determination. It would essentially mean that every
19 child would be virtually excluded from the category by
20 virtue of the fact that you can't prove that he is learning-
21 disabled because of these criteria. It is an impossible one
22 to implement. You cannot make it work, in light of our
23 present ability to evaluate children.

24 The other areas as far as L.D. is concerned is there
25 is not a requirement for the multi-disciplinary team's

1 report to be written. Presently, if I am on a team and I
2 have a disagreement about the team's position, I may write
3 an independent position. Now that rarely happens, but I
4 have been involved in situations where that has occurred,
5 where one member of the team will disagree with the team
6 and say that this is a child that needs da-dah, da-dah, da-
7 dah-dah-dah. If you remove that opportunity, the team then,
8 as individuals, will not be able to speak out when they have
9 a difference of opinion.

10 The last thing under learning disabilities is an
11 observation. There has been a lot of discussion about the
12 needs for observation. It is a requirement in the present
13 regulations. I feel a well-done observation is a very great
14 help to the teacher, especially the receiving teacher, when
15 she first gets a learning-disabled child, to have some sense
16 of how to work with that child, what his attention span is,
17 his ability to stay on task is, what kind of things distract
18 or distress him. Learning-disabled kids are the only ones
19 where an observation is required. I feel that that is a
20 necessary part of the evaluation process and should be
21 retained.

22 The section on residential services is also a major
23 issue. The present regulations require that parents have
24 all of the services provided to them at no cost, including
25 psychiatric care, occupational therapy, physical therapy --

1 whatever kind of care and residential placement that the
2 child needs. The proposed language narrows that responsibi-
3 lity to the service provider and says that the parent will
4 have to pay for whatever things are not included as
5 educational -- room and board are included.

6 Technically speaking, if I were to have a child that
7 was placed in a psychiatric treatment facility because that
8 was appropriate for him to benefit from special education,
9 under the proposed regulations, the parents could be found
10 responsible for all of the psychiatric care. And they could
11 be made to pay for that, even though they may not have
12 agreed to that initially. That would be their liability.
13 It costs about \$3,000 a month to place a child in a
14 psychiatric treatment facility.

15 In Hawaii, we do not have a complete range of
16 psychiatric care facilities at this time. The problem is
17 that we have short-term facilities where youngsters can go
18 and be served on a short-term basis. The hospital does not
19 have any week-end care. Salvation Army is not a secure
20 facility. It has children who run from there frequently,
21 and so it is a great problem.

22 The State Hospital is not a secure facility. And in
23 our experience, what has happened is that many of the
24 children who are placed in residential facilities, particu-
25 larly the juvenile delinquent learning-disabled youngster,

1 he is placed in a facility that is not secured, and when
2 he is on probation and he runs, that becomes a felony, and
3 then his criminal record is built up at a much greater rate
4 than is necessary, simply because we don't have any
5 appropriate services for kids requiring long-term residen-
6 tial treatment.

7 And I am not suggesting that that is a need for many
8 children, but we do have children in the state for whom we
9 do not have that service, and at the present time the only
10 way I can counter that is to go to a rule 49 hearing. And
11 when I do take that tack, that -- I have three cases in
12 Federal Court -- State or Federal Court -- that deal with
13 this very issue, not because the State is not willing, but
14 simply because there is no service, no vehicle, no facility
15 here for them to provide the service and the agreements
16 which have taken place between the various departments do
17 not sufficiently deal with that.

18 Federal law requires that there be an agreement between
19 the departments of education and the departments of social
20 services, such as the psychiatric -- or the children at
21 Waimano. The SSH has not signed an agreement with the
22 Department of Education on this. There have been efforts
23 to get that done, but it has not come forth, and as a result
24 of that, when you place a child in a residential facility
25 on the Mainland, you are then stuck with trying to figure

1 out who is going to pay for it.

2 Ultimately, the Department of Education is responsible.
3 The present regulations deal with that very clearly, and I
4 will get to my concern on that a little bit later.

5 So the need for total services here in our state, I
6 think, is a present problem that the present proposed
7 regulations do not really deal with.

8 The extended school year is not addressed in the
9 proposed language. The Federal Department of Education
10 wisely asked that we have a comment on that. Across the
11 nation that is an issue, because it is an expensive one for
12 the states to pick up the dollars. We have had two State
13 litigations -- class action suits -- in our state regarding
14 this, and that problem is still being discussed and
15 developed. And by extended school year, I do not mean a
16 six-week summer school program. I mean a program that goes
17 throughout the school, and that is necessary in order for
18 that child to benefit from special education and related
19 services.

20 I am not talking about the youngster that can benefit
21 from six weeks from summer school and it is a choice. I
22 am talking about the child that has to go to school beyond
23 180 days because he has to have that in place in order for
24 him to learn effectively. And that is a thorny problem for
25 all of us, because it is not easy to make that determination.

1 The data is not in, so it is not an easy problem to solve.

2 The other concern, discipline. In the proposed
3 language, the words "substantially ascertainable" are used.
4 And as I mentioned earlier, those are not defined. They are
5 not specified. I fear that if we do not remove this part,
6 we are going to have children who are being excluded from
7 their programs without a right of the parents and the
8 department sitting back down and talking about why the child
9 is having difficulty in school.

10 The present regulations provide for an IEP to take
11 place if a child is to be suspended for any length of time
12 because the program is found to be inappropriate. If you
13 have an educational officer who is not aware of the needs
14 of handicapped children, he could suspend a child
15 inadvertantly, based on what is substantially ascertainable.
16 Again, the language is not specific, and vague, and is
17 therefore open to abuse, and as far as I am concerned, to
18 getting us into more hot water instead of less.

19 I agree, this is an area where we need to have clear
20 understanding in the field, and there is much misunderstand-
21 ing -- many people believing you cannot discipline
22 handicapped children. That is not true. The Federal law
23 does allow for the discipline of handicapped children, but
24 it does provide certain vehicles and procedures that you
25 must follow, and you have to be aware that you don't

1 discipline the child if it is his disability that is causing
2 his behavior. So if you have a learning-disabled youngster
3 and he is aware of right and wrong and he sells pot the same
4 as the general education student, he should be subject, in
5 my view, to the same discipline. And that too is held in
6 our present language and by case law.

7 The proposed language confused the matter. It makes
8 it cloudier, from my viewpoint.

9 The proposed language deals with hearing aids -- a
10 very little-used section in our state. The present regula-
11 tions require that hearing aids be maintained as functional
12 for all hearing-impaired children. I have never gone to an
13 IEP meeting for a hearing-impaired, learning-disabled child,
14 and I do have some clients who have both disabilities, where
15 the hearing aid, when it has been malfunctioning -- no one
16 in the school felt it was their responsibility, largely
17 because they didn't know it was a section of the law. If
18 you remove the law, you then allow that child to become
19 functionally excluded from school, because the hearing aid
20 is the vehicle by which the child is able to participate
21 in school.

22 I am also very concerned about surrogate parents. We
23 have a problem in providing services to surrogate parents
24 because we are having difficulty locating people to be
25 good surrogate parents. The present language spelled out

1 what you should do when a surrogate parent is to be given
2 -- to be appointed by the Department of Education. The
3 present language states that whenever a child is the ward
4 of the State, that would be when a surrogate parent would be
5 appointed. So if a child goes into Waimano or the State
6 Hospital or Ko'olau, to name a few, they are usually made
7 wards of the State. This is true in Ko'olau when the child
8 is put in Ko'olau to the age of majority, and all parental
9 rights are therefore taken away.

10 Surrogate parents should be appointed, because there
11 is a requirement in the Federal law that someone look out
12 for the best interests of that child, and if the guardian
13 is also the administrator of the program, he is in a
14 conflict of interest and is not in a position to deal with
15 the child's best interest in an unbiased manner.

16 So surrogate parents are a -- really an important
17 factor in the delivery of services to a small group of
18 children in our state.

19 Additionally, the present law requires that they be
20 knowledgeable about the child's disability, as well as about
21 the law. All the sections in the proposed language dealing
22 with training have been deleted.

23 The last point I would like to make is the line of
24 single responsibility.

25

1 The present regulations require that the Department
2 of Education is responsible for seeing that the necessary
3 services for the handicapped children are provided at no
4 cost to the parents. Be it from the Department of Social
5 Services and Housing, the Division of Mental Health, wherever
6 that service must come from, they are the single line of
7 authority.

8 The Congress passed this into the law because children
9 were falling into the cracks. We were on a merry-go-round.
10 You come into one office and they say "It is not my
11 responsibility. That service you get from a different
12 department, a different State agency."

13 So the Congress made a single line of authority. It
14 did provide that there could be agreements between various
15 State agencies, but that the entire State is responsible
16 for the education of handicapped children, the Department
17 of Education being administratively responsible for
18 enforcement and implementation.

19 The proposed language removed that single line of
20 authority. Not much has been talked about that across the
21 nation. I see that as a major setback. I see the language
22 of the present regulations as a tool for us which we can use
23 with the Department of Education and other agencies to force
24 them to provide the necessary services. If you remove the
25 single line of authority, you take that power or that clout

1 away. And once again we will have children falling through
2 the cracks, as we did before.

3 I think that's the bulk of what I would like to say.
4 I am concerned about 504A, and I would like it to be clear
5 that I think 94-142, in its present regulations, has done
6 much to implement and to help us with services for handi-
7 capped children in the state to date. I think it is too
8 soon to change the regulations. We still have problems,
9 and I have not addressed all of those. But we do have some
10 problems -- residential services, surrogate parents -- we
11 are working on that -- extended school year -- those are
12 all being worked on -- agreements between the agencies and
13 the full implementation -- those are a few of the concerns.

14 What I have seen is a marked increase in services.
15 My fear is that if the law is changed, we will have a
16 decrease and be back to what we had before. And we are not
17 ready for that, in my viewpoint.

18 MS. NAGTALON-MILLER: What is the nature of your
19 working relationship with the DOE?

20 MS. SINCLAIR: Well, we are very good friends with the
21 Department of Education. We have been out front, especially
22 since Donnis Thompson has taken the leadership. Prior to
23 that time, I was not looked upon with much favor.

24 Department of Education and I have had, many times in
25 the past, major differences of interpretation of Public Law

1 94-142 in the delivery of services. Over the years, I
2 think much of that had to do with the fact that the Federal
3 regulations came down in 1977 and none of us really knew
4 exactly how to interpret those regulations. We were both
5 learning at the same time.

6 The department did not have appropriate programs and
7 services in place, and received a direction from an attorney
8 general that mandated that they should -- they didn't provide
9 -- if they were providing transportation or services to
10 children in private school, they were also responsible for
11 the tuition. And that is correct. His direction to the
12 Department of Education was to write letters to the parents
13 directing them all back to public schools. The hooker was
14 that they were getting the services from the Transportation
15 Department because there weren't appropriate programs in
16 the public schools, so they were caught in a position of
17 having to carry out a directive from the deputy attorney
18 general when they really didn't have programs in place.

19 So the first year of implementation, the Department and
20 I were frequently on the other side of the fence, and each
21 of us learned as we went along. As the programs have
22 increased, and I really want you to hear that they have
23 increased, there are still problems. But the programs have
24 increased. There has been a need for less of rule 49
25 hearings. We are usually able to mediate things out, except

1 in the areas of residential services and some very unusual
2 kinds of things, where you have a child that has a double
3 disability that is not commonly met. But we are working on
4 those things. But the hearings are much decreased, and that
5 has to do with more services and better working relationship
6 with the department.

7 I think there is an awareness that we are both
8 advocates for L.D. kids and handicapped children, but we
9 wear different hats and there is more respect for the
10 differences as a rule than we have had previously.

11 MR. MAXWELL: Mrs. Sinclair, in light of the role
12 that is played by the State as advisory committee on civil
13 rights, would you say that the primary problem at this point
14 is a set of proposed rules and regulations which controvert
15 the original law, 94-142, and when you say that if the
16 advocacy groups in the country fail to retain the present
17 set of regulations, that there is imminent danger in terms
18 of the State being able or wanting to continue the services
19 now in existence which you feel are being worked through
20 without too much adversarial confrontation, as it were?
21 So that what I am really asking, is there a job that needs
22 to be done right at the Federal level? Then there is a job
23 which needs to be done at the State level. Do you anticipate
24 that if something isn't done at the Federal level, that in
25 fact your fear that we would revert back to an old situation

1 is fairly possible?

2 MS. SINCLAIR: I have to say that I think that is
3 fairly possible. I think that the department's efforts to
4 come up with a position on the proposed regulations documents
5 that there was a lot of differences, as I understand it,
6 within the field as to how the proposed regulation should
7 be reacted to. Many of the administrators in the field
8 would like to go back to the old way. At least that is the
9 word that I am getting from the teachers in the field. And
10 there is a lot of paperwork required, and it is not often
11 always understood. I feel there is a major risk on that.
12 Yes. I would not be here today if I did not feel that way.

13 MS. MORINAGA: What are some of the reactions you get
14 from the disabled parents?

15 MS. SINCLAIR: I think the reaction from the disabled
16 parents has been overwhelming in the state. The task force
17 on Public Law 94-142 has generated over 600 letters since
18 August 3rd for total withdrawal. I know at least that
19 number has been generated and I think that their concern
20 is that yes, there are some problems, let's work on the
21 problems and refine them, but don't change it. It's too
22 early. We haven't had enough time to deal with that. We
23 really don't know how much it costs to educate a child from
24 kindergarten all the way through. It is our belief that it
25 will cost less. And we will be saving down the line. And

1 preliminary studies that have been done would substantiate
2 that. Most of the parents are gravely concerned. And
3 parents of children who aren't eligible for services are
4 concerned because they found, while they went through the
5 evaluation process, they learned something about their
6 children. They were able then to get some accomodation
7 that they weren't able to get before. So the outcry from
8 parents has been overwhelming, and very, very supportive for
9 total withdrawal.

10 MS. MORINAGA: Thank you.

11 DR. THOMPSON: Mrs. Sinclair, you made a statement
12 that you would appreciate the line of authority still
13 pointing to the Department of Education.

14 MS. SINCLAIR: Yes, I would.

15 DR. THOMPSON: Can you expand a little bit?

16 MS. SINCLAIR: Okay, I will try to do that. Let me
17 try to give you some examples.

18 Whenever I even -- with present regulations, which
19 call for single line of authority, when I have a child that
20 is at Ko'olau and I am an advocate for that child, and about
21 50 percent of the kids at Ko'olau are handicapped, I have a
22 really difficult situation getting services for that young-
23 ster, because there are three different State agencies I
24 have to deal with. I have to deal with the Department of
25 Education, whose directive seems to be: Provide education

1 in spite of the single line of authority. I have to deal
2 with the Department of Special Services and Housing, because
3 of Corrections. They control most of what happens to that
4 child, and if this is a child who is emotionally handicapped
5 -- and the vast majority of them come in with more than one
6 label -- then I have to provide some sort of psychiatric
7 care. Now, each one of those agencies has a different
8 dimension, different definitions, different parameters,
9 vested interests. I don't know any other way to say it.
10 And so what happens is, you walk into a tinderbox of, you
11 know, this is the way we do it. DSSH Corrections say it
12 is our determination whether this kid goes to school or not.
13 It is our determination -- if he doesn't want to go to
14 therapy, he doesn't have to. A crisis evaluation is done
15 when the child is admitted, and if the youngster refuses to
16 go, regardless of whether he came from a program where he
17 got therapy five days a week, that is not counted. If he
18 is to get tutorial services because he refuses to go, there
19 isn't very good follow-up to see that that really takes
20 place. So I have some concerns about that. And the reason
21 I want it to stay a single line of authority is because it
22 is easier to monitor, to support, to advocate for, to back
23 up a single line than it is trying to figure out how to do
24 it with three or four. The more times you get people
25 involved, the harder it is to deal with it.

1 DR. THOMPSON: I understand there are some other
2 states who have a very strong commitment toward the content
3 of 94-142, whether it is the Federal government that passes
4 it or not. But the State takes on that responsibility.
5 So that these children aren't caught between these other
6 areas. Have you thought in terms of maybe putting some of
7 your energies into seeing that the State maybe takes on
8 this responsibility without just pointing to the Department
9 of Education?

10 MS. SINCLAIR: Yes, I would agree with you on that.
11 I think it is the State as a whole. And I think we would
12 be very happy to work with the State. We have worked at
13 the legislature for monies. I don't feel that we have all
14 the pieces in place and we do need to do some planning and
15 to work. We would also be -- and are planning to work for
16 the passage of certain legislation which would mandate
17 94-142 into State law, and 504 also. I am not sure we will
18 be able to get it in this session because of all the new
19 legislators, but that is a target for our association and
20 for those of us on the task force, feeling that we need to
21 put the protections into State law and not depend on the
22 Federal law.

23 DR. THOMPSON: And not just depend on one entity within
24 the State --

25 MS. SINCLAIR: No.

1 DR. THOMPSON: -- as such, to assure this?

2 MS. SINCLAIR: The Federal law states the State as
3 a whole is responsible, but the implementation is the
4 responsibility of the Department of Education. I think
5 that section in the very front of the law is often mis-
6 understood and not well understood by other people in the
7 community. So I would agree.

8 DR. THOMPSON: I bring that question up as my
9 colleagues here sit, and in terms of what Mrs. McElrath
10 has said in terms of what we can do and so on, and what
11 our concerns can be in relation to you.

12 MS. SINCLAIR: We would be very happy to work with all
13 of you on making things better and improving things. Getting
14 it through the legislature. I see the key is there has to
15 be a mandate, because if you don't have a mandate, you don't
16 get the money. We had a model law in '49, and we didn't
17 get the money in '77 when the mandate came down.

18 MS. NAGTALON-MILLER: Thank you very much. I think
19 I will declare lunch recess, and we will reconvene -- we
20 will break now and come back at one o'clock.

21 MS. SINCLAIR: Thank you for allowing me to appear.

22 (Lunch recess. The hearing reconvened at 1:25 p.m.)

23 MS. NAGTALON-MILLER: I have to reconvene now; we are
24 half an hour late. Sorry about that. I would like to
25 emphasize again that this is a consultation and not an

1 adversary proceeding. And we are here to get as much
2 information as we can from all of you who are here today.

3 The first person today, after lunch, to make a
4 presentation is Mr. Ozmond Okazaki.

5 MR. OKAZAKI: On behalf of State Superintendent of
6 Education Donniss H. Thompson, also a member of this
7 committee, may I welcome you to this first public consulta-
8 tion of the Hawaii State Advisory Committee to the United
9 States Commission on Civil Rights.

10 My name is Oz Okazaki. I am on the staff of the
11 management audit and civil rights branch of the Office of
12 the Superintendent. I will be providing you an overview
13 of the public school system in Hawaii and how it is
14 administered. And something about the department's or the
15 public school system's affirmative action program.

16 There is certain things which we are very proud of.
17 We continue to say we are unique people in a unique place.
18 We are also a unique public school system. We are the only
19 unified State-operated public school system in the country.
20 There aren't any municipal or local, county-operated public
21 school districts in Hawaii. Everything in the name of public
22 schools comes under the Department of Education and
23 Superintendent Thompson.

24 The public school system is also one of the oldest
25 schools -- public school systems -- in the country. So it

1 was first established in 1840 by constitution under the
2 monarchy of King Kamehameha III. That takes us back quite
3 a few years.

4 We are also the eighth-largest public school system in
5 the nation. To give you some idea of the magnitude of our
6 school system, we have approximately 161,000 students
7 enrolled in our K-through-12 schools. We have 227 regular
8 kindergarten-through-12th-grade schools, five special schools
9 for the handicapped and alienated students, we have 11
10 community schools for adults. We employ close to fourteen
11 and a half thousand employees, including roughly 600
12 education officers, approximately 9,000 teachers, and close
13 to 5,000 classified civil service employees. Our annual
14 operating budget is, for this fiscal year, \$383.3 million.

15 The governance of public education in Hawaii is a
16 little difficult to explain. We are -- the public schools
17 system comes under the Department of Education, which is
18 an executive branch agency under the governor, which is
19 part of the executive branch of State government. The
20 Department of Education, besides operating the public school
21 system, also operates the public library system.

22 Now, the Department of Education is headed by the
23 State Board of Education, which is an elected, 13-member
24 board -- executive board. The Board, with respect to the
25 public school system, is empowered to formulate policy and

1 exercise control over the public school system through its
2 appointed executive officer, Dr. Thompson, the State
3 Superintendent of Education.

4 The Board of Education exercises its executive powers
5 to control over the public school system, subject to State
6 laws and review by the legislature. It is also subject
7 to the administrative directives and fiscal policies and
8 procedures established by the governor and applicable to
9 all executive agencies.

10 As the executive officer to the Board of Education,
11 the superintendent is responsible for implementing the
12 Board policies governing the public school system. Line
13 authority and accountability is exercised by the superin-
14 tendent through seven administrative school districts, each
15 headed by a district superintendent.

16 The seven districts -- there are four located on Oahu,
17 including Honolulu, Central Oahu, Leeward Oahu, Windward
18 Oahu, and a district office each on Hawaii, Maui and Kauai.

19 At the State level of administration, the Superinten-
20 dent of Education has provided the staff support by four
21 main groups of offices.

22 In the office of the superintendent, she is assisted
23 by the planning and evaluation branch, the budget branch,
24 the management, audit and civil rights branch, data process-
25 ing service branch, and public information office. She is

1 also assisted by -- with respect to curriculum management
2 decisions -- the office of instructional services.

3 With regard to employment and industrial relations
4 matters, it is the office of personnel services.

5 And finally, with respect to common administrative
6 support and logistical and physical support services, we
7 have an office of business services.

8 Another feature of the public school system is that
9 there is provision for public involvement in administration
10 at all levels.

11 At the State level, of course, we have the Board of
12 Education, which is an elected governing body. It conducts
13 general public meetings twice a month. It also holds
14 public hearings throughout the state on matters pertaining
15 to departmental rule-making.

16 At the district level, we have school district
17 advisory councils appointed by the governor who conduct
18 monthly public meetings on matters relating to the schools
19 in a particular district and matters pertaining to the
20 district administration.

21 The council advises the district superintendent. The
22 individual board member representing the district, and the
23 chairperson of each of these district advisory councils sits
24 in an advisory capacity at each meeting of the Board of
25 Education.

1 At the school level, the school principal is advised
2 by school/community council representing the residents of
3 the school attendance area, parents, students, and school
4 staff.

5 And in addition to these formally constituted advisory
6 bodies, there are innumerable ad hoc advisory bodies
7 established for specific purposes to obtain public reaction
8 and public input in matters pertaining to educational
9 decisions.

10 There are some people that say we are too big an
11 organization, that it is very impersonal. It is very
12 difficult to get in touch on a personal basis with people
13 who are in the department, but we do have some very definite
14 benefits of operating as a state-wide, unified school system.

15 One is in connection with the allocation of resources.
16 Since the bulk of our funding comes from the State general
17 fund appropriations, the unified public school system
18 provides for an equitable allocation of resources, regardless
19 of how affluent or how poor a community is in terms of tax
20 revenue base.

21 The unified state-wide school system also provides
22 equal education opportunity. All the educational programs
23 and activities of the public school support facilities and
24 support services and the instructors are equally available
25 or governed by the same standards, wherever you go in the

1 public school system. A child attending a remote school on
2 a neighbor island is not receiving any less quality education
3 than a person living on this island in an urban area.

4 Now, a few words about our affirmative action program.

5 The public school system is an equal-opportunity
6 employer. It abides by all Federal and State laws which
7 prohibit discrimination in employment based on race, color,
8 national origin, age, sex, marital status, religion,
9 handicapping condition, and arrest and court record.

10 The public school system is committed to affirmative
11 action. The Board of Education, on January 9, 1975, adopted
12 its policies, goals, and guidelines for an equal employment
13 opportunity affirmative action program. These policies,
14 goals and guidelines have formed the basis for the public
15 school system's affirmative action program.

16 The Superintendent of Education has developed an
17 affirmative action plan for minorities in women. The plan
18 was drafted and adopted in 1976 and we have been operating
19 under these plans since then.

20 The Board of Education has appointed a standing advisory
21 group called the Affirmative Action Advisory Council to
22 review the progress of the public school system's implemen-
23 tation of its affirmative action program. This advisory
24 body reflects a cross-section of the state's residential
25 work force, including representatives from various minority

1 groups, women employees, employee bargaining units, and
2 administration.

3 The superintendent has designated the director of
4 management, audit and civil rights branch as the public
5 school system's affirmative action officer. The affirmative
6 action officer, in cooperation with the assistant superin-
7 tendent of State offices and the district superintendent,
8 is responsible for developing and implementing the affirma-
9 tive action plan, and reporting and auditing employment
10 practices of the public school system.

11 We believe the affirmative action program to be
12 effective since 1976, which is the base year of our
13 affirmative action program. The number and proportionate
14 representation of females in the work force have increased.
15 The number and proportionate representation of Filipinos,
16 part-Hawaiians, Puerto Rican, and mixed groups in the work
17 force have increased. And we have -- when we discuss this
18 we have to think in light of the fact that we have been
19 operating in the past few years in a state of declining
20 school enrollment and a relatively stable work force in
21 terms of size.

22 Another index maybe, or an indicator of the effective-
23 ness of the affirmative action program, may be viewed in
24 terms of employment discrimination complaints lodged against
25 the department. Since 1974, there have been 79 individual

1 employment discrimination charges filed against the Depart-
2 ment of Education with the Equal Employment and Opportunity
3 Commission. Of the 79 charges, 65 have been dismissed by
4 the Equal Employment Opportunity Council without adverse
5 findings. There are still 14 charges remaining to be --
6 remaining, and we are optimistic that there will be no
7 adverse findings.

8 Now, as I indicated, the affirmative action program
9 plans were developed back in 1976, and have been the basis
10 of our affirmative action efforts. We realize that the
11 state of the art in terms of affirmative action knowledge
12 about different action programs, strategies, tactics, and
13 expectations have changed or been developed since 1976. So
14 we are presently in the process of taking a good, hard look
15 at what we have developed in 1976, with a view towards
16 improving the plans. We expect a draft of revised affirma-
17 tive action plans to be completed in February of 1983.

18 At last night's Board of Education meeting, Superin-
19 tendent and the board both made a commitment to insure that
20 the draft revisions will be subjected to review and reaction
21 by the community.

22 I have given you some brochures. We have also some
23 posters on our equal employment opportunity program.

24 In closing, let me just say that I wish the advisory
25 committee well in its study of the public school system.

1 I have with me Mr. Donald Nugent from our office of personnel
2 services and Douglas Rattley is with our office of management
3 audit and civil rights branch.

4 MS. NAGTALON-MILLER: Thank you. Are there any
5 questions that the Committee would like to ask?

6 MR. WALLACE: I have one question. In regards to
7 your district advisory committee council -- the council
8 members are appointed by the governor to serve, I assume,
9 as the liaison between the community and the school district.

10 MR. OKAZAKI: That is correct.

11 MR. WALLACE: In your opinion, how active or effective
12 have they been?

13 MR. OKAZAKI: I think they have been very effective,
14 and people are very much in touch with the concerns of the
15 community. They meet, from what I understand, they do meet
16 regularly and with the district superintendent. Chairpersons
17 of each of the councils sit in on the Board of Education
18 business meetings twice a month, and make presentations
19 concerning the concerns of the respective communities. So
20 as a liaison, I would say that they are pretty effective.

21 MR. WALLACE: Thank you.

22 MR. MAXWELL: I don't know if it is proper to ask you,
23 but you are speaking about affirmative action. I was kind
24 of interested to find out about programs specifically on
25 the Waianae Coast pertaining to native Hawaiian children.

1 We had Mrs. Dixie Padello here this morning, and my interest,
2 basically, is to find out what steps are being done to help
3 the native Hawaiian children who come into the educational
4 system. Because I feel that this is the essence of the
5 problems that the native Hawaiians -- the children start from
6 young and they cannot come into the education system to
7 compete. I don't know if you are the person to ask this,
8 but -- would you answer that, if you could?

9 MR. OKAZAKI: I don't think I can speak in terms of
10 the -- are you referring to the kinds of educational programs
11 that are being offered?

12 MR. MAXWELL: Right. Okay. Let me put it another
13 way.

14 There is all kinds of studies were made as to what
15 are the problems affecting the native Hawaiian children.
16 Aloliki and all kind of people made studies of the problem.
17 What I wanted to know is, is there -- is the Department of
18 Education trying to eliminate these problems or any programs
19 ongoing?

20 MR. OKAZAKI: I will defer to Dr. Thompson.

21 DR. THOMPSON: May I?

22 A couple of things are happening. I am very concerned
23 about our ethnicity, and I think that we need to maintain
24 these kinds of things which is indigenous to Hawaii. I think
25 the key is also the Hawaiian group -- particularly as we look

1 at some of their basic skills and the scores, and it is kind
2 of caught up in terms of some sociological phenomena that
3 the schools have to address.

4 But also, in addition to that, I think the general
5 state has to address, also, the social, economic, and so on.
6 But there are some things we are doing.

7 We don't think it is enough, and we want to continue
8 these areas. But of course the statute includes Hawaiian
9 studies, which has to be a part of each school now, and
10 part of the curriculum.

11 In addition to that, the group from Waianae came to
12 me as I was just appointed, and they were noticeably
13 concerned about the K-through-3 program. And they proposed
14 that a particular program be instituted throughout the
15 state. Well, we talked and conferred and we ended up
16 suggesting maybe this should be a pilot study of Waianae
17 Coast. So we do have that starting as of September of this
18 year.

19 Now, in addition to that, the Board of Education has
20 the Hawaiian Affairs Committee, and they are quite active.
21 And I just think that we need to build on those things and
22 certainly continue.

23 MR. NAGTALON-MILLER: Did you have a question?

24 MS. McELRATH: You may have addressed this. I am not
25 sure whether specifically you answered it, but an assertion

1 was made this morning apropos of the people whom you hire.
2 I am not talking about the children.

3 An assertion was made this morning that there hadn't
4 been a meeting of the affirmative action committee for two
5 years. Now, whether or not that is true I don't know, in
6 view of the fact that you say that your 1976 plan is being
7 reviewed and that by February 1983 you will have a new plan.

8 At the same time, the assertion was made that your
9 committee does not in fact reflect some of the figures of
10 the demography of the state, that perhaps you should use
11 the Department of Health surveyance record in order to get
12 a better breakdown as to what the ethnic ratios should be in
13 the Department of Health, since obviously your plan was drawn
14 on the 1970 census report, and the 1970 census -- '80 census
15 reports have come to us in a rather spasmodic fashion.

16 So I guess one of the questions I should like answered
17 is, is it true that in fact your affirmative action committee
18 has not met for the last two years; and two, is there any
19 plan in the future to have a better reflection of the ethnic
20 distribution of the state by using other statistical
21 material?

22 MR. OKAZAKI: Okay. On the first question, I believe
23 it is true that the affirmative action advisory council has
24 not been convened for two years. The responsibility -- the
25 council is a Board-appointed council to advise the Board of

1 Education. The chairmanship of the council is determined
2 by the Board of Education. I believe the Board's representa-
3 tive on that council is Mr. Mako Araki. So I would say that
4 the initiative in respect to the calling of the meetings of
5 the council would rest with the Board.

6 As far as the department's administration is concerned,
7 we have complied with all of its requests with respect to
8 submitting periodic information as to the status of employ-
9 ment in the department to the Board of Education and to the
10 council.

11 MS. NAGTALON-MILLER: You have your hand up.

12 MS. BEGGS: I am the chairman of the advisory council

13 --

14 MR. WALLACE: Will we be hearing from you?

15 MS. BEGGS: Yes.

16 MR. WALLACE: I prefer that we hear from you another
17 time.

18 MR. OKAZAKI: Excuse me, Ms. McElrath had another
19 question in regard to the ethnic breakdown of the --

20 MS. McELRATH: As per your drawing up your affirmative
21 action plan, which was done in 1976, which is supposedly now
22 somewhat passe because the demography of the state has changed
23 so much, and because apparently you used information which
24 did not truly reflect the ethnic breakdown of the state.
25 And there was a question raised as to whether or not you

1 shouldn't be using other statistics in order to draw up your--

2 MR. OKAZAKI: Very definitely, we will be using several
3 sources of current statistics, particularly with respect to
4 the composition of the work force. Yes.

5 MS. NAGTALON-MILLER: For the record, what has been the
6 criticisms or the praises of the affirmative action program,
7 and in what ways has the affirmative action program met the
8 needs of your constituents, and what do you feel are the
9 areas that still need improvement?

10 MR. OKAZAKI: Well, I am not familiar with any praises.
11 I have heard a lot of -- I have heard a lot of things.

12 Basically, the general public apparently feels that the
13 mix of the -- the composition of the work force has not
14 changed enough or as fast as they feel it should. And when
15 I say "they," we are talking about all of the different
16 unrepresented groups. We are talking not only ethnically,
17 but we are talking about women and the handicapped.

18 In our program, I don't think we have been recipients
19 of any praise.

20 MS. NAGTALON-MILLER: Well, given the structure of the
21 DOE, do you think that there are certain problems or needs
22 as articulated by principals, parents, and other citizen
23 groups -- do you feel that they are difficult for the DOE
24 to address? Since you did mention that we have the only
25 centralized system in the United States and it has its

1 benefits and so on.

2 MR. OKAZAKI: I am not quite sure I understand the
3 question.

4 MS. NAGTALON-MILLER: Maybe I should rephrase it.

5 There are all sorts of concerns from the public about
6 equal opportunity affirmative action and so on. Now, given
7 the structure that you have explained to us, are there
8 problems with this particular structure that makes it
9 difficult for the DOE to respond to some of these problems
10 or needs of the community?

11 MR. OKAZAKI: Not to my knowledge. Let me tell you
12 where I am coming from.

13 Our office is very visible as the office to come to
14 if a person employed by the department, or a student, or a
15 parent of a student has a complaint about the civil rights
16 or equal employment opportunity rights of their rights.
17 So we have -- our posters and our brochures are distributed
18 to everybody: the students, the administration, the
19 teachers, the parents -- making them aware of their rights.

20 We have established within the administrative structure
21 procedures, due process procedures, for filing complaints
22 and for appealing any decisions that they feel have an
23 adverse impact on them. All I can say is right now, we do
24 have a very visible program in terms of letting people who
25 are affected by our operations to grieve or to air their

1 complaints or concerns.

2 Now, our office receives approximately two complaints
3 a month. Most of these complaints are with respect to
4 treatment of students in the schools. They feel that there
5 is sex discrimination in terms of the way a class is composed
6 or organized, or they feel that a child's rights to partici-
7 pate in a particular sport have been deprived because of her
8 sex, things like that.

9 But you are talking about 161,000 students with
10 potential complaints. You are also talking about 15,000
11 employees with potential complaints. And our office has
12 been getting, generally, only about two complaints a month.

13 MS. NAGTALON-MILLER: Of course, I think the reason
14 for the information I wanted was that if we do hear that
15 the system is somehow equipped to deal with the problems of
16 our educational system and on the other hand we hear that
17 there are problems with equal opportunity and affirmative
18 action, that's why I am interested in knowing in what way
19 we could think or conceptualize the problem to help us, in
20 fact, in finding --

21 MS. McELRATH: May I carry this a bit further in a
22 slightly different way?

23 This morning we have invited all representatives of
24 the district schools advisory councils to come here, and I
25 think three have said that they can't come at the very last

1 minute, although they were given notice of this hearing, oh,
2 about a couple of weeks back. It is interesting to note
3 that some of them, when they received this request, said
4 "Well, gee, what is this all about," you know, "What is this
5 civil rights thing?" So that it seems to me that although
6 the picture which is painted is that information is given to
7 parents, to teachers, prospective employees, principals,
8 et cetera, that that may be the commitment to do -- an
9 affirmative action equal access to education concept is not
10 there because possibly -- now and I don't know, that is why
11 I am asking the question -- because possibly people do not
12 really understand what equal rights is all about, nor what
13 an affirmative action program is all about.

14 And I am concerned because these are representatives
15 of the people. And I think what Ms. Nagtalon-Miller is
16 getting is this: Is the mechanism by which these individuals
17 are appointed in fact standing in the way of a real commit-
18 ment to the idea of equal rights and affirmative action?

19 Sometimes the political process can get in the way of
20 democracy being carried out. And obviously, those of us who
21 are concerned about all of the complaints, the letters to the
22 editor kind of thing about how I wasn't treated well, or the
23 union won't allow me to do this thing or that thing happened,
24 are concerned about whether or not the concept of civil
25 rights affirmative action is being carried out.

1 And I should like to get your feeling about it,
2 because goodness knows, there are enough comments made about
3 the lousy school department which doesn't provide opportuni-
4 ties for minorities.

5 In other words, the problem. We can have a very fine
6 plan, but if in fact nothing is done aggressively, then we
7 worry about whether or not the plan is in effect.

8 MR. OKAZAKI: I can't say that the inability of your
9 district advisory council people to attend this meeting is
10 a reflection of a lack of awareness about civil rights. I
11 don't know if I can agree with you on that. They may have
12 been unaware of the nature of this public consultation.

13 But as to whether they are unaware of their own civil
14 rights or civil rights of their constituency, I can't draw
15 that kind of conclusion.

16 But let me just say that we do make a very definite
17 effort to make our students and our employees aware of their
18 civil rights, and some of these brochures we have distributed
19 to you, the departmental procedures for filing complaints --
20 employees who file civil rights complaints within the
21 department. The department rule 52, which deals with
22 procedures for students to file civil rights complaints, are
23 widely disseminated and they are known to the parent, and the
24 fact that they don't result in a large-scale number of
25 complaints -- I don't know whether this is good or this is

1 bad.

2 MS. NAGTALON-MILLER: I think that is the question
3 that is concerned, of course.

4 MR. OKAZAKI: Let me put it another way. Prior to
5 1976, I would say that the level of awareness in terms of
6 what the law provides for and what the civil rights of
7 students and employees are was at a much lower level. And
8 I think that since 1976, with the establishment of our
9 affirmative action program and with the assignment of the
10 civil rights responsibility to our office, we have done some
11 -- made some very considerable efforts to make persons aware
12 of their rights.

13 MS. NAGTALON-MILLER: Florence.

14 MS. MORINAGA: I am quite concerned of Ni'ihau. I
15 am wondering what affirmative actions have taken place for
16 their education. I know that according to the press, that
17 I heard that OHA and the DOE do not agree on the DOE's
18 method on some of the things they have planned for the
19 Ni'ihauans on the island of Ni'ihau: education, schools,
20 teachers and so forth.

21 MR. OKAZAKI: Dr. Thompson, could you comment on that?

22 DR. THOMPSON: I am not sure. In terms of the agree-
23 ment of OHA and the DOE, let me tell you what our position
24 is with the Department of Education.

25 First of all, we do have some concerns with Ni'ihau,

1 but how you resolve them is not like walking into McKinley
2 High School or you name it.

3 First of all, the island is not accessible. You have
4 limited flights and barge access available. I could go on
5 with those things that are indigenous to Ni'ihau, but to
6 sum all of this up, we are calling together the Hawaiian
7 community and saying that these are the things that we have
8 seen and we feel that these are our concerns and we need to
9 address those.

10 Now, can you be of help to us in terms of addressing
11 these particular aspects? And that is where we are now
12 with the Board of Education.

13 The Hawaiian Affairs Committee and we have met with
14 OHA, I mean officials of OHA, and talked about this. And
15 that's about all I can say in terms of the concerns we have
16 had.

17 We have had also some very positive feelings about
18 Ni'ihau, and some things that are there. But the bottom line,
19 of course, is education, and as I said, we need some help in
20 terms of taking care of this.

21 So it isn't a vacuum, and the DOE is saying okay, folks,
22 this is how it will be, and so on. I think it is a sensitive
23 area and it has been in existence, and I don't want to name
24 25 or 50 years, but we are concerned about it. And we will
25 be addressing it, with help from other agencies.

1 MS. MORINAGA: Thank you very much.

2 MS. McELRATH: Could I ask another question? In your
3 presentation, you said that a centralized, unified, state-
4 financed educational system virtually ensures quality
5 education to all of our children, regardless of where they
6 reside. Does the DOE have a set of figures, perhaps over
7 the last 20 years or 15 years or 10 years, for however long
8 you have kept those statistics, a set of statistics which
9 would indicate what is the percentage of students who enter
10 institutions of higher learning from all of the high schools
11 of the state of Hawaii? And what is the rate of dropout
12 once the students enter the university?

13 MR. OKAZAKI: I don't believe the department maintains
14 data of that nature. They attempted to a few years ago,
15 tried to track certain graduation classes, but nothing in
16 terms of the ongoing system of data collection and recording
17 that would give you the trend or pattern over so many years.

18 There is, I guess, one fallacy, maybe, in that type of
19 information, is the presumption that the schools teach for
20 the purposes of preparing kids to go to college, and that
21 is not necessarily true. There are other types of objectives
22 -- vocational preparation. You also have other than regular
23 college institutions.-- you have other types of continuing
24 learning experiences that students go into after the high
25 school period.

1 But -- if you are talking only about college-bound
2 persons, I don't know if we have that kind of specific data.

3 MS. McELRATH: Would you have data of any sort, whether
4 they go in any post-secondary learning experience, including
5 four-year or two-year university experience, vocational
6 school, whichever? Do you have anything at all that you can
7 furnish the committee with?

8 DR. THOMPSON: I do believe we have that information,
9 but I am not certain. Let me check on it and see.

10 In addition, I would like to say, if I may, that in
11 terms of the question asked, it alluded to the fact that we
12 are a one-district system. And I must say that I think it
13 is of benefit to Hawaii. We do have the seven districts
14 where the state superintendent appoints the district
15 superintendents and so on.

16 But I do feel, as we talk about efficient, economic
17 concerns, that the one district is something that some of
18 the other districts in the United States are looking to maybe
19 going into that one-district system.

20 Also, the concerns that you have raised in terms of
21 the percentage and the age and the socio-economic background
22 and what areas and so on that people go into college
23 regardless of whether you have one district or whether you
24 have many districts it has also been a problem in the
25 Mainland as we go to the ghettos and the various other things

1 where people are coming out of and what is happening to them,
2 and we do need to address that kind of thing here in Hawaii.
3 And I think you can better address it at the State level than
4 as a small community. I would not necessarily say that
5 California should be run from one office or one board of
6 education, but I think we have some positive things working
7 in Hawaii that really makes it possible to view this kind of
8 thing. But, still, to know that we have to have a commit-
9 ment to listen to various groups and so on and be in contact
10 with them and let them still be in contact with the heart-
11 beat of the DOE, and that is certainly something that I feel
12 is extremely important.

13 MS. NAGTALON-MILLER: One last question that I have.
14 Maybe it is difficult to ask because it comes out of -- it
15 is not from looking at the structure. I have often heard that
16 it is very difficult for citizens to get information from the
17 Department of Education in the form of statistics and tables
18 and so forth. Is there any kind of document or a policy
19 that says that the different departments are not allowed to
20 give any information to the public?

21 MR. OKAZAKI: We have a pretty open system with respect
22 to policies.

23 MS. NAGTALON-MILLER: There is no policy that says
24 people should not be given out information then?

25 MR. OKAZAKI: On the contrary.

1 DR. THOMPSON: Only in relationship to where there
2 might be a court case.

3 MR. OKAZAKI: Yes. Court cases or --

4 DR. THOMPSON: I do know that has been a problem.

5 MR. OKAZAKI: And we do protect the privacy rights
6 of individuals.

7 DR. THOMPSON: But student information we cannot --

8 MS. NAGTALON-MILLER: The example I could give is
9 people are looking for the numbers of teachers who are of
10 Hawaiian background, of Japanese and so forth, and they say
11 it is very difficult to get such information.

12 MR. OKAZAKI: That information is readily available.
13 In fact, we report it on a current basis every quarter to
14 the Board of Education.

15 MS. NAGTALON-MILLER: Or else if they finally get the
16 information, it is after having a long run-around or refer-
17 ring people to certain departments and certain persons and
18 then going back that -- later in the afternoon or the next
19 day -- but you don't have a policy that says you can't give --

20 MR. OKAZAKI: There is no restriction with regard to
21 public information or information -- release of information
22 of a public nature. Dr. Thompson was referring to, of course,
23 there are some restrictions with regard to specific data on
24 cases or pending litigation or -- which deal with the
25 confidential nature, dealing with individual rights of

1 persons -- students or employees or parents.

2 MS. NAGTALON-MILLER: Mr. Don Nugent.

3 MR. NUGENT: The hard thing I find with data requests
4 is as long as it is public data, then I think that it is
5 reasonable. But I had a request for some, they wanted the
6 names of 3,000 individuals that are on the list by phone
7 number and so on, and of course I am not going to be in a
8 position where I can turn around and write to all 3,000
9 applicants if it is okay for me to release their --

10 MR. OKAZAKI: We cannot release personal data like
11 that.

12 MR. NUGENT: I think the nature of the information
13 requested on the part of the people requesting it is often-
14 times unreasonable, too. And the department, you know, it
15 takes a lot of pressure from people and guff because we
16 can't provide the information. And sometimes it is not
17 because you don't want to, but it is because of the fact
18 that we have other regulations. We are dealing with other
19 regulations.

20 MS. NAGTALON-MILLER: I understand that. And I am
21 just as concerned as you are about requests that are
22 impossible to really answer. But on the other hand, I am
23 interested in more information of this type and that should
24 be available to the public.

25 Any more questions? If not, thank you very much.

1 Mr. Radcliffe is unable to be here, and in his place
2 we have Mrs. Shirley Elento.

3 MS. ELENTO: Good afternoon. My name is Shirley Elento
4 and I am the field representative for the Hawaii State
5 Teachers' Association out in the Leeward district. I am
6 representing John Radcliffe here, who happens to be on the
7 Mainland at the moment. And I will be speaking for the
8 Hawaii State Teachers' Association.

9 The Hawaii State Teachers' Association is the exclusive
10 bargaining agent for the teachers of Hawaii. Our collective
11 bargaining law authorizes us to organize with the purpose
12 of collective bargaining as prescribed by law.

13 Hawaii's public employment collective bargaining law
14 is very specific in that it excludes certain management
15 rights from the collective bargaining process. And those
16 rights include the employer's rights to direct, hire, assign,
17 discipline, transfer, and lay off employees, and to determine
18 employee qualifications, and the methods to conduct agency
19 operation. All of those things which I have just mentioned
20 are excluded from the bargaining process.

21 HSTA is also the state affiliate of the National
22 Education Association. And the National Education Associa-
23 tion has a two-pronged approach to serving the needs of
24 educators across the country. It works with its affiliates
25 in the areas of collective bargaining and professional

1 development. Both of these have strong commitments to
2 human and civil rights which are reflected in the governing
3 documents and in the various projects, legislative programs,
4 and issues undertaken by the organizations. As a specific
5 example of this, I would like to say that at our NEA
6 convention about three years ago, Hawaii's delegation
7 placed into the legislature -- and backed by 107 million
8 teachers -- an item which would have -- which would address
9 the concerns for the Hawaiian Education Act. And it was
10 our state, with 41 delegates, in a convention which had
11 states the size of 600 delegates and more, we were able with
12 41 delegates to convince the entire delegation of approxi-
13 mately 5,000 delegates that Hawaiian education was
14 important. Had we not spoken up, no one else would have
15 been involved with Hawaiian education as such. And we did
16 place that into our legislative program.

17 I happened to be, at that time, a delegate to the
18 convention, and I happened also to be a director of the
19 National Education Association. And I followed the growth
20 of that particular item, and it is still, to this day, part
21 of the legislative package at the NEA level. Which gives
22 the impact of the entire organization speaking towards
23 Hawaiian education and its necessity at the national level.
24 They have a special minority involvement program and a
25 special women's leadership training program which is

1 intended to help all affiliates. It also has a standing
2 committee on human relations and an annual conference on
3 human and civil rights.

4 As the exclusive bargaining unit, we have done our
5 best to include in our collective bargaining agreement with
6 the State Board of Education as many civil rights issues as
7 possible. In particular there is an article of non-
8 discrimination and an article of assignment and transfer
9 practices which we hope will be especially fair to all of
10 our people.

11 Aside from the written contract, we are also in
12 constant dialog with the employer regarding academic
13 concerns, educational issues, and problems which impinge
14 upon education, such as civil rights, State and Federal
15 legislation, and State and Federal budgeting.

16 The HSTA has the following concerns regarding, first,
17 budgeting, of course. The tremendous cutbacks in Federal
18 funds to our state will undoubtedly cause havoc, especially
19 to the programs geared to the handicapped, equality issues,
20 and bi-lingual, multi-cultural questions. The loss of impact
21 aid may mean a cutback of approximately 500 teachers, if and
22 when that becomes a reality.

23 The second thing is the changes in the regulations in
24 the civil rights area will affect us just as they affect
25 other states if things we are seeing happening across the

1 nation are going to hit.

2 Third, the exceptionally tight job market we are
3 faced with today does not allow room for creativity and
4 change because our efforts are, by necessity, geared to the
5 protection of the present bargaining unit members.

6 Four, temporary positions: the employer uses temporary
7 positions as a means of meeting educational needs which
8 cannot be met. But the more temporary positions you have,
9 the less chance there is of working towards firm kinds of
10 programs regarding your full-time employees.

11 Five, the bi-lingual and multi-cultural education
12 question for us seems to be compounded in Hawaii, especially
13 with the diversity present here. The result, we feel, is
14 a natural confusion of what bi-lingual and multi-cultural
15 education means in this state.

16 Six, we feel that there is a need to clarify to the
17 teachers in the schools, to the people out there, the term
18 "minority" in this state; because of our history and because
19 of our makeup, we are described as a state of 69 percent
20 minority. And if you go out and speak to a person and say
21 we are 69 percent minority, they will look at you and then
22 they will laugh. They do not understand the term "minority."
23 In a state of predominantly minority people, the problem may
24 be better addressed if we could refer to ethnic balances or
25 ethnic representation. We know that that has started, but if

1 you look into the schools, there is not anything conscious
2 there. It is very difficult to speak of minority concerns
3 when the group you are speaking to is made up of minorities.
4 They say "What are you talking about?"

5 In closing, let me say that the HSTA and NEA are very
6 aware of the constant need to look at and deal with human
7 and civil rights in all of our endeavors that we take to
8 serve our people. Thank you.

9 MS. NAGTALON-MILLER: Do you want to ask any questions?

10 Do you mean from your last statement about the
11 minorities that it is very difficult for people to under-
12 stand that there is a numerical minority as opposed to
13 perhaps a minority that has no power?

14 MS. ELENTO: No. I mean simply that if you speak to --
15 if you speak to a large group of teachers and you say that
16 we have to take up minority concerns, they don't know what
17 you are talking about. There is not an awareness.

18 I feel, honestly feel, that there is not an awareness
19 of what the term "minority" means. I found myself several
20 times speaking to groups where I had to revert to saying
21 "Look, what I am saying is in terms of our country, minority
22 means non-haole. If you are not a haole, you are a -- if
23 you are not a haole, you are a minority." Then it sunk in.
24 Other than that, they do not understand it. They don't
25 understand the term.

1 You look at the posters that are in the schools. But
2 you go in randomly and say "What does that mean?" "Oh, we
3 don't need to worry about that. We are all mixed anyway.
4 We are balanced anyway." That is the reaction right down
5 into the workplace and into the schools.

6 I think it is an outgrowth also of our own particular
7 history and our own upbringing. I think if you look at the
8 schools -- I was in the schools for 22 years. I would be
9 about the average teacher. My background would be the
10 background of many of the teachers in the state. And that
11 is, we grew up in a state that had many peoples to begin
12 with. We were taught everyone was the same to begin with.
13 We had all of these kinds of upbringing. And now, in 1982,
14 and at this particular time, we are told "You must pay
15 attention to the differences of children." That has not
16 been part of our background. So it is a re-education and
17 a process of relearning.

18 How do you deal with differences of people because
19 most of us have grown up understanding that people are
20 equal. If you look around you and see, everybody is a
21 minority. Big deal. So when you get things that come across
22 your desk, things that come across to you which speaks of
23 minorities, everybody says "Oh, no need. We are mixed. We
24 are all taken care of." And when you try to explain that
25 that is not necessarily so, there is a bigger picture out

1 there, it does not get across.

2 You will permit me personal -- I was the NEA director
3 for this state for three years. I went to Washington almost
4 every other month. And it is because of that experience I
5 have understood the term "minority."

6 MS. MORINAGA: In Los Angeles, when they used the
7 word "minority," they always refer to me, the Hispanics,
8 the Blacks, the Japanese, the Blacks. In San Francisco, you
9 must mean minority because you are Japanese or Puerto Rican.
10 But in Hawaii, as you say, the concept is different. People
11 in this state have a different connotation of the word
12 minority. Again, it may have many facets, other than what
13 we have here in Hawaii.

14 MS. ELENTO: We have another concern, the Wainae Coast
15 for instance. There is a project there right now, and it is
16 like Dr. Thompson stated earlier, it started this September.
17 There was a group of teachers that worked out this Waianae
18 Coalition project which is taking place now in the schools.

19 One of the concerns we see is how many projects do we
20 put in the schools and how many pilot programs and how many
21 more things to tie up. And which ones are really going to
22 be tried out, and which ones are going to be left on the side,
23 because there is not enough time in the day.

24 I now work with the school. We are so anxious, because
25 there are so many programs that there is a possibility that

1 one child gets pulled out of the program four or five times
2 in the day who is entitled to that many programs. Which
3 program is going to take effect? You cannot keep putting on
4 program after program after program without any kind of
5 relief.

6 How do I send a second grader to the Waianae Coalition
7 program, for instance, while I also have to send him to
8 reading and math and also I have to take care of him in the
9 ordinary classroom? And that multiplies all over the place.
10 So that is a worry for us. How many programs? Which
11 programs? Which ones will have priority? And when we put
12 more than one, do we ever take away another one? It doesn't
13 seem that that happens. So there is going to take a long
14 time to sift through.

15 MR. MAXWELL: If I can comment on what you just
16 mentioned, this problem that we have has just originated
17 recently. It took a long time, years and years, for it to
18 develop. And so the problems are deep-rooted. Whether it
19 is in cultural -- it is a cultural root that is from way
20 back or it is the environment that our children are being
21 brought up in, but there is -- what I am saying is that there
22 is a definite problem and by putting new programs on top of
23 each other, it is not going to solve that. If anything, it
24 is going to take a period of time to solve it. It can't
25 be solved right away. But it has to start now.

1 Donnis says, you know, that they have started a program
2 and that is good, but somebody has to look along the way and
3 say yes. And about minorities, I agree with you. And the
4 only way we know we are minorities is when we walk in
5 Waikiki. Then we realize the word of minorities.

6 MS. McELRATH: It is interesting, isn't it, apropos
7 of your comment, that in fact we may be destroying the civil
8 liberties of a child to acquire an education because we pull
9 him from pillar to post in our frenetic desire to really have
10 him have a smorgasborg, as it were. And we may really be
11 destroying the opportunity for well grounded education
12 because we think that every bloody new fad that comes along
13 must in fact be incorporated in our school system.

14 MS. NAGTALON-MILLER: Are there any other questions?
15 All right. Thank you very much.

16 Our next presenter is Flora Beggs, president of Hawaii
17 PTSA and chair of the Board of Education Affirmative Action
18 Committee.

19 MS. BEGGS: Thank you. Madame Chairman and members of
20 the council, I appreciate being here. I represent the Hawaii
21 PTSA, which is a private, non-profit corporation chartered
22 by the national PTA and incorporated under the State
23 Department of Regulatory Agencies. We represent approximately
24 28,000 members throughout the state, about 150 local units,
25 and we are bounded together with our local units and with the

1 national units by association. That is, the objects and
2 purposes of the national organization are common to us all.
3 And our bylaws are the things which bind us.

4 As a state PTSA, we have what we call a legislative
5 platform. And in conjunction with our resolutions, this
6 constitutes our stand on things.

7 Our equal rights platform says we support the premise
8 that all persons in the state of Hawaii shall be given equal
9 opportunity to participate in, and to derive the benefits of,
10 any educational or recreational program or activity receiving
11 State or County financial assistance or utilizing State or
12 County facilities, regardless of age, sex, ethnic background,
13 or handicapping condition.

14 We believe that all persons in the state of Hawaii
15 shall be given equal opportunity for jobs or promotions in
16 accordance with Federal equal employment guidelines to assure
17 equal opportunity and affirmative action in all areas of
18 employment, recruitment, promotion and mobility, regardless
19 of age, sex, ethnic background, or handicapping conditions.

20 We have only one resolution under that, and it was
21 passed in 1977, in which we recommended that the State
22 Legislature investigate the athletic program of the DOE.
23 And we requested that they correct any inequities at the
24 earliest possible date. This was about a girl in an athletic
25 class that was not allowed to participate in a certain

1 athletic activity.

2 As we are very definitely for equal opportunity, we
3 are a group that is -- that comes from an island, and we are
4 part of the same kind of cultural and ethnically caused
5 problems in affirmative action programs. As chairman of
6 the Affirmative Action Council which is advisory body to the
7 Board, I was on the council from the very beginning. It was
8 a very active and alive group. And when we were appointed,
9 we received the policies and guidelines from the Board of
10 Education. These drafts were excellent. They were highly
11 realistic philosophically in their nature. So then the
12 question was, what do you do with them? How do you implement
13 them?

14 There was a great deal of difficulty in describing the
15 role and function of the first board and the council. And
16 how we fit together and what exactly we did. Communication
17 was very poor. The board maybe didn't know how to answer
18 us because we asked some very pointed questions, and this
19 led to a very poor situation. The council, not getting any
20 guidance from the board, and this is not meant to be critical,
21 maybe they didn't know what to advise us -- what to do,
22 because implementation and the philosophic premise are two
23 different things. And maybe by the time the board got down
24 to the implementation process they realized what a really
25 tremendous, difficult job this was going to be. So they may

1 have been just as much at sea as we were.

2 However, it created a great polarization between the
3 council and the board. Communications, as I said, were poor.
4 In the process, the board made representations on those
5 policies and guidelines which they forwarded to the board.
6 And a part of poor communication was that the board never
7 responded to the council. The council decided finally that
8 one of the things they should do was write up an affirmative
9 action plan -- an implementation plan -- which we then did,
10 using the Board of Health figures, the statistics of 1972,
11 rather than the census figures of 1970.

12 We thought it was an excellent document. I mean, we
13 had ownership in it and authorship. We were very proud of
14 it.

15 The board looked at it, received it. Did not comment
16 on it, and then went ahead that same year of '76 and wrote
17 their own plan, which we received after it was approved by
18 the board for our recommendations and review. This kind of
19 thing continued over the years as long as I was with the
20 council. And we would get the plans, usually after they had
21 been to the board, so that our review was immaterial and
22 irrelevant. And this was a part of the very poor communica-
23 tion, in spite of some lengthy meetings with the board on
24 specific questions and in trying to clarify roles and
25 functions and get this communication thing out of the way

1 and all the rest of it.

2 One of the things that we did come to a concensus
3 about was the question of minority, because in all the
4 statistics, we found that we were all minorities. There
5 wasn't one clearly defined majority in Hawaii.

6 One of the things we talk about minorities being white.
7 Well, some of the problems we had, and this is a good
8 example, when the DOE at that time was sending figures to
9 civil rights under Title VII, they were using the classifi-
10 cations that established on the Mainland which include
11 Caucasian and then all of the others.

12 Now, when they were applying for grants to the Federal
13 government for instance, they were using the numbers of kids
14 in our own groupings, which shows us all to be minorities.
15 So this kind of thing upset us because it should have been
16 consistent.

17 As far as affirmative action is concerned, I think the
18 reasons that it wasn't more successful have to do with a
19 great many things, as Mr. Maxwell said. The roots are in
20 the community and that's it. It is a highly emotional issue,
21 as well as being a political one, a cultural one, an ethnic
22 one, the whole shooting match. I think it is very difficult
23 to promote or to propose the kind of changes that affirmative
24 action would have meant in our educational system easily.
25 They are very difficult to put in, and a lot of it has to do

1 with attitudes of people who are doing it. You can't change
2 the habits of a lifetime. You can't change your background
3 and what you grew up with. So you can't just dump this
4 thing and have it happen overnight.

5 My feeling is that it is not going to happen in this
6 generation and with what we have now, that may be, if we
7 are lucky, it might happen in the next generation. But not
8 this one, because change with a capital C, and this one
9 particularly, hits at the very nature of our society. It
10 is too difficult to attain in one generation.

11 I agree with the HSTA representative that affirmative
12 action is very poorly understood by all levels of the
13 community. And in and out of the DOE, we talk about it in
14 our organization, and most of our people don't understand
15 it and trying to explain it is very difficult.

16 Another thing, one of the things I would like to see is
17 I would like to see the DOE, for instance, be interested in
18 a plan that has affirmative action for student hires. We
19 have served a lot of complaints from students about the
20 hiring. There is a lot of part-time jobs given to students
21 in the district state schools and libraries. I would like
22 personally to see some efforts made in this area because I
23 think that is a place to start. It doesn't threaten the
24 establishment. It doesn't threaten the political entity or
25 the union entity and it is a way to start, that may be

1 something that would be good in the future. For the next
2 generation. But at this point, you know, I feel as far as
3 the council was concerned, one of the reasons we hadn't
4 had any meetings for two years was there was so little
5 response. We got stonewalled. So you put your energy in
6 for four or five years and you feel you have made very little
7 progress. There is no sense to continue. I mean, energy --
8 time and energy are too precious to waste on the kind of
9 thing that doesn't really show you anything.

10 I take some exception to Mr. Okazaki's saying that
11 there is a lot of affirmative action. Because I still get
12 complaints from people who say "I was told not to apply,
13 because I won't get the job." And this always bothers me.

14 I would also be very happy to get a copy of the
15 revised plan when you get it out, because I haven't gotten
16 any reports either for the past two years, and I think it
17 is something you really have to work on.

18 But I don't see any sense in trying to implement it
19 with the present structure. One of the criticisms we had
20 was that the figures didn't adequately reflect the situation.
21 When we get the reports on affirmation action, the quarterly
22 reports, well, it looks really good for women and all the
23 rest of it. But a lot of times, some of the -- in the EO
24 section, particularly women who are three month hires or
25 temporary or probational -- we thought that wasn't equitable.

1 Many of these women would then revert to -- back to their
2 student teacher status in the department. We fought long
3 and hard to have that changed, so that only the permanent
4 or long-time substitute EO's were included in that report.
5 I guess that's about all I have to say. We had concern --
6 basically our concerns were there weren't enough men as
7 elementary schoolteachers. We thought that that was a big
8 problem. We also had problems with employment of teachers,
9 for instance, where there were a lot of immigrant children.
10 We feel that this was not well done, because if you -- you
11 had -- these kids had two strikes against them already and
12 no really compatible kinds of teachers in their school that
13 they could relate to, so this was the second concern of
14 ours.

15 I guess that's about it. I do have that affirmative
16 action plan that we wrote, if anybody is interested in it.
17 It's about like that. But we thought it was pretty good.
18 Any questions?

19 MR. WALLACE: We would like that plan, please.

20 MS. NAGTALON-MILLER: Do you feel that the affirmative
21 action is no longer a -- an important issue in Hawaii and
22 that issues such as you mention, where there are not enough
23 men teaching in elementary schools, should take precedence
24 over affirmative action plans?

25 MS. BEGGS: I have always felt that kids need male

1 models as well as female models, and if you have a primarily
2 -- your teaching force at the elementary level is primarily
3 women, they lose a great part of it. With our society now,
4 with so many single-parent families, it becomes critical
5 for these kids. I think national affirmative action has
6 taken a back seat with the advent of Reagan. That slips
7 down to our area, too, but I think that was kind of welcome
8 here, because I am not sure that affirmative action was
9 really anybody's priority. So that this may have been
10 welcome.

11 MS. NAGTALON-MILLER: I asked this question earlier,
12 and I think it is still apropos here. Could you make a
13 distinction between minority -- numerical minority and
14 minority from the standpoint of lack of political power,
15 because in South Africa, for example, where the great
16 majority of people there are Blacks, they don't have the
17 power.

18 MS. BEGGS: Right.

19 MS. NAGTALON-MILLER: Therefore, the definitions of
20 majority and minority are very important. I think maybe
21 that gives us a clue to how we should look at our problems
22 in Hawaii, given that we have different situations.

23 MS. BEGGS: Possibly. You might be right. But when
24 I was speaking of majority and minority, I am speaking in
25 numerical figures only. I wasn't referring to the political

1 base.

2 MS. NAGTALON-MILLER: This has come up repeatedly,
3 that it is true in Hawaii that almost everyone is a minority.
4 But then it is easy to say, therefore, let's throw it out
5 the window. There is no problem and no need for affirmative
6 action. But if you -- supposing tomorrow a big grove of
7 Samoans were to come to Hawaii, thereby sending up the
8 numbers of Japanese and so forth, we can't say that those
9 are in the majority if we are looking at the definition of
10 power. You know, from the government point of view and
11 participation in educational decisions and governmental.
12 That's all I am pointing out.

13 MS. BEGGS: My answer to that is that representing
14 my organization I would say whatever is best for the child
15 and of course I am the kind of person that has a lot of
16 cynicism for political decision in education, because I
17 think very often we don't reflect the need of the child
18 and that is always a concern to me, but that is me personally.
19 All right.

20 MS. MCEL RATH: Flora, you might have indicated that
21 because we are unable to place teachers in areas where there
22 are large numbers of immigrant students that perhaps, and
23 one might intimate this from what you said, that perhaps
24 the civil rights of those children might be somewhat
25 damaged. Now, could you -- do you have any specific

1 suggestions or recommendations as to how this so-called
2 imbalance might be corrected in terms of the relationship
3 of the teachers and the DOE, which as Mrs. -- as the PSTA
4 person pointed out, has the sole purpose of hiring and
5 firing?

6 MS. BEGGS: I don't think, under the present
7 contractual -- under the bargaining units and under the
8 contracts we are held there is much you can do about it.
9 Don is sitting back there with a backload of 3,000 teachers
10 and you can't hire anybody else, unless it is a specific
11 skill. Unless those people are used up. About the only
12 way I can see it would be handled is through the use of
13 community persons in volunteer roles that they might be
14 used. I am speaking of the broader community, not just my
15 organization. That they might be brought into the school
16 to help in this area, rather than trying to buck the contract
17 which is really very, very difficult. And I am not sure
18 that any suggestions that I might make might be relevant to
19 that. I think you take the wisdom of a Solomon to try to
20 sort that out, but a practical solution would be to use what
21 community members you have who have skills and could help
22 in this area.

23 MS. McELRATH: On the other hand, someone has already
24 made the assertion that generally speaking, teachers
25 apply to work in those districts where they reside. Now,

1 from a sociological point of view, that has a number of
2 advantages as well as disadvantages. And I am wondering,
3 since Mr. Nugent is here, in fact, how do you place those?
4 Do you in fact honor their requests to have a position in
5 the district where they reside?

6 And what effect that might -- what kind of harm that
7 might do to those students who maintained their skills?

8 MR. NUGENT: Is it all right to answer that question?

9 MS. NAGTALON-MILLER: Yes.

10 MR. NUGENT: I think more recently it has been
11 difficult to assign people to where they would perhaps like
12 to be assigned, particularly in the last seven year period
13 since 1973, when the enrollment loss filtered into the public
14 school system. We had a very serious decline and obviously
15 that kind of prohibits you from having a lot of vacancies
16 to offer people. So they can't transfer to jobs and move
17 to places they would like to be located in. My feeling has
18 been in the last seven years there has been very little
19 movement in the DOE. And regretfully, maybe, that isn't
20 good for a department. But people aren't moving because
21 we haven't had that many positions. So I think your staff,
22 as a general rule, in most schools, particularly on Oahu,
23 has been fairly stable. As you look down the road a ways,
24 then you can envision some other kinds of things, because
25 we do know that our enrollments will be picking up in '84 or

1 '85, because the birth rate will be up for those years.
2 We also know that the system is getting older, and the
3 potential for more retirees will begin to occur, and if you
4 put these two factors together, escalated enrollment and
5 more retirements, then I think what will happen is, we will
6 begin to hopefully arrive at a point where you would see a
7 few more openings. And movements would be more of a
8 possibility. And maybe you might be in a better position
9 to accomodate a different community residing in a differ-
10 ent area. The immigrant communities sitting in certain
11 areas and it would be nice if you could provide entry into
12 positions of models that you know reflect that particular
13 community and their values. But if you are asking me if that
14 has been happening to a great extent, I think it is
15 difficult because of what I have indicated. But the future
16 seems to hold more possibilities. Any more questions?
17 Thank you very much.

18 MS. NAGTALON-MILLER: Is Ethel Hasegawa here? Maurice
19 Ishimoto? Charles Tamashiro? Robert Ottensmeyer? These
20 are the members of the various advisory councils who are
21 not able to be here today. So I think we need to take a
22 break right now.

23 (Brief recess.)

24 MS. NAGTALON-MILLER: For the third time today I would
25 like to reconvene this meeting. Our next presenter is Mr.

1 Grant Canfield, president of the Hawaii Education Council.
2 Will you come to the front here, please?

3 MR. CANFIELD: I wanted to describe to the Commission
4 a program that has been operating here in Hawaii which will
5 be proceeding to about nine years in 1983. About eight
6 years ago, under the National Alliance of Business, the
7 Hawaiian business community and our State Department of
8 Education joined in a partnership to provide educational
9 opportunities for our classroom teachers, counselors and
10 school administrators on more or less how to determine
11 where the job opportunities were -- the entry level jobs --
12 and this program was specifically directed towards
13 disadvantaged youth. This was an outgrowth of the jobs
14 program wherein the original focus had been to help people
15 find chances for improved upward mobility as adults. And
16 this program grew out of that, because they felt that the
17 place to begin was back in the classroom. To help students
18 become better prepared so when they were adults they would
19 be qualified to find employment. This is a very interesting
20 program in that we have had such wonderful support from both
21 the Department of Education and the business community.

22 My organization -- a non-profit Hawaii educational
23 corporation -- has been the coordinator for the program
24 since its inception.

25 I brought along a copy of our 1982 report, and I just

1 would like to touch on a few of the highlights on this
2 report.

3 For example, we had 58 schools in the state of Hawaii
4 that had representatives attend this program. The program
5 was built around three 40-hour sessions conducted outside
6 of school hours, during the teachers' and counselors'
7 vacation period in the summer. And we normally looked for
8 a quota of about 40 participants in each program. And we
9 drew our quota this year from 58 different schools in the
10 state. Most from Oahu, but I believe this year we had one
11 or two from Maui and one or two from Hawaii.

12 Now, out of the total participants, we had 127 teachers,
13 20 counselors, six administrators, and three librarians.
14 During the program, the various participants visited 41
15 different places of business, and we have a complete listing
16 in hereof all the site visits and of all the business people
17 who conducted sessions for these people.

18 Now, the program is built around four major elements.
19 Bearing in mind that the entire thrust of the program is
20 to help classroom teachers and counselors gain a better
21 knowledge of the types of work opportunities, as well as
22 the world of work, so that they can be better qualified in
23 the classroom for example, where I think a great deal of the
24 guidance of people occurs -- young people -- so they can be
25 qualified to advise their students how to prepare and where

1 to look for work.

2 We are, as I say, focusing primarily on students who
3 do not matriculate to college and may not even finish high
4 school. It is focused on students who have a terminal
5 education in high school or drop out. In order to get this
6 information across in a typical 40-hour program, which runs
7 for five consecutive days, the teachers are divided into
8 four groups. And during the mornings and afternoons after
9 each day with the exception of Friday, they visit plant
10 sites. Each shift takes practically two hours. Some may
11 run as long as three hours. And during that time they are
12 actually escorted on the premises, they receive an
13 opportunity to inspect the specific types of work. You will
14 find in this folder a checklist that shows the information
15 that they gather concerning the entry level rates, the
16 starting rates, the career ladders, a lot of environmental
17 factors about the type of benefits, the working conditions,
18 whether or not the company has a bargaining agent, and so
19 forth and so on. So that at the end of the week our total
20 group of teachers has visited somewhere between 30 and 40
21 business on the island of Oahu.

22 The second component of our program is what we call our
23 workshop. And here the four groups of teachers give reports
24 so that the teachers who didn't get a chance to visit a
25 particular site learn what has been going on in the other

1 sites. We share in that particular session.

2 The third element of the program is our luncheon
3 presentation and for the honor of addressing our group we
4 get local businessmen to pay for our lunches. This
5 generally runs about four or five lunches each day, and the
6 businessman then talks specifically about the focus of their
7 company, the opportunities they have, some current problems
8 they have. They describe in more detail the employment
9 opportunities and how they see the outlook for their
10 companies. It is kind of a general economic and employment
11 type discussion. And that is generally a very fascinating
12 part of the program, because we get many of our major chief
13 executive officers to come down and meet with the groups of
14 teachers and educators.

15 Now the fourth part is a special program on Friday.
16 This grew out of a 1978 study made by the Department of
17 Education concerning what their graduating classes that year
18 felt was the greatest lack in preparation for entering the
19 world of work. It was pointed out in that survey that
20 approximately 80 percent felt that they had not received any
21 preparation for what it was like to go out and look for a
22 job. So on Friday we have our wrap-up session to cover the
23 visits that have been made the previous day, then we have a
24 panel of personnel professionals drawn from various companies
25 -- it varies from session to session -- but I have a group

1 of top personnel executives and on a very informal basis
2 chat with the educators and tell them what they look for
3 and how young people fail in applying for work. I am sure
4 that every educator that has gone through this program has
5 learned that and will go in advising her students or his
6 students that young people shouldn't come in groups when
7 they are looking for work. They should bring something to
8 write with. They should know what they are looking for and
9 if they are really interested in getting the job, they
10 should look up a few things about the company. We talk
11 about dress, we normally visit at least one female personnel
12 executive. She will talk about how the girls should prepare
13 for their interviews and one of the things we have all
14 learned is that if you don't know, you go downtown or go to
15 the place and at lunch hour you wait and see how the people
16 come out. And this is a guide for how to dress properly.
17 The program has a pre- and post-test, which we measure the
18 knowledge of the major markets prior to participating in
19 the program, and afterwards. We customarily have 20 to 40
20 percent improvement of understanding of the labor market.

21 I am telling you about this whole group of businesses
22 and occupations that are needed to support our economy here.
23 That is pretty much how it goes. I see we have finished up
24 eight years of this program and some years we have run as
25 many as five of these programs. And in one year, six. We

1 have run them on all islands, but currently, like many other
2 organizations, due to the lack of funds, we have concentrated
3 our efforts on Oahu, because this is where most of the
4 employment opportunities and population is.

5 Now, this program, since the discontinuation by NAB,
6 this program has been funded by Hawaii business corporations
7 and local foundations. So there is no cost to the taxpayers.
8 The Department of Education has a couple of people --
9 excellent people that work with us on coordinating the
10 program on the school side. We have had very fine
11 endorsement from the superintendent on this program. The
12 feedback has been outstanding, and we normally have a
13 waiting list to get in the program. This year we introduced
14 a new program called Applied Career Exploration. It is
15 included here, too.

16 It is an outgrowth based on comments we received from
17 educators from earlier situations. They felt they would
18 like a more in-depth program where they could participate
19 in a shadowing experience. So last year, we got ten
20 different companies to agree to between two and three
21 educators apiece, and they went two to three days apiece
22 with the company, going around with the executives, visiting
23 the various departments, finding out how the principal
24 executive conducts his staff meetings, how the companies
25 are gearing up for computer operation.

1 Sears-Roebuck in particular took six people and they
2 gave one of the most intensive programs that I have ever
3 seen that somebody conducted voluntarily to all of their
4 stores, their central distribution center, their central
5 ordering centers, showing them what the work environment
6 was like in practically every level and category of work
7 at Sears.

8 We had 85 people who wanted to take the program. We
9 originally said we would take 20, and then increased it to
10 24, so there is a great deal of interest in the educators
11 in learning about where the job opportunities are, how you
12 can best prepare for the world of work. And if our demands
13 for that type of enrollment continue, I am sure it speaks
14 very well of the interests of our teachers in helping their
15 people finding adequate employment upon graduation.

16 That's our program.

17 MS. NAGTALON-MILLER: Thank you. Do you have any
18 questions?

19 MS. McELRATH: Mr. Canfield, do you have any evaluation
20 other than the participants' good evaluation of what is
21 happening -- what I am interested in, is do you have any
22 follow-up of the number of students who in fact are sent
23 out by these teachers who have been prepared by your job,
24 who are then hired by the company and do or do not those
25 students last on those jobs?

1 MR. CANFIELD: We don't have any data like that,
2 because our program ends at the end of the institute.
3 However, we do have repeated attendance and many of the
4 repeaters that maybe are out a couple of years and come back,
5 they have told us, informally, it has been very helpful to
6 them.

7 MS. McELRATH: In getting students placed in companies?

8 MR. CANFIELD: Right, yes.

9 MS. NAGTALON-MILLER: Any other questions?

10 MR. CANFIELD: I am prepared to leave this report and
11 you will find a lot of information and give you some idea
12 of the scope of the program and the excellent support we have
13 had from the Department of Education and the business
14 community in putting this program on.

15 DR. THOMPSON: Mr. Canfield, I have a different role
16 here today than normally when we meet, but I want to very
17 definitely thank you for your efforts and know that we plan
18 to continue this marriage that we have started.

19 MR. CANFIELD: We look forward to the wedding.

20 MS. NAGTALON-MILLER: Thank you very much.

21 MR. WALLACE: Thank you.

22 MS. NAGTALON-MILLER: I think we have an open session.

23 MR. WALLACE: No one has signed up for the open
24 session, so we can go on with the closing.

25 MS. NAGTALON-MILLER: The Hawaii State Advisory

1 Committee is pleased to hold this public forum to coincide
2 with the celebration of Community Education Week here in
3 Hawaii. We hope this project will help to further the spirit
4 of a quality education for all of Hawaii's peoples.

5 The focus of today's proceedings has been the state
6 of civil rights in the public education arena. As a first
7 step in the Advisory Committee's study, today we have heard
8 from public and private groups and organizations, as well
9 as individuals knowledgeable of the study area. We will
10 review the transcript of this meeting, meet and talk with
11 additional individuals and groups, and then will submit
12 our findings and recommendations to the Commission in
13 Washington, D.C., and to our State leaders for their
14 consideration.

15 The Advisory Committee would like to thank all those
16 who have appeared here today. The meeting is adjourned.
17 Mahalo.

18 (The meeting adjourned at 4:05 p.m.)
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C E R T I F I C A T E

I, MARIE K. SMITH, a Court Reporter, do hereby certify:

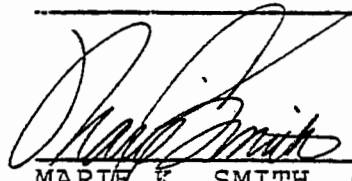
That I was acting as shorthand reporter in the foregoing matter on the 19th day of November, 1982 ;

That the foregoing proceedings were taken down in machine shorthand by me to the best of my ability at the time and place stated herein, and were thereafter reduced to typewriting under my supervision;

That the foregoing is a true and correct transcript of the proceedings had in the foregoing matter and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that I am not counsel or attorney for any of the parties hereto, nor in any way interested in the outcome of the case named in the caption.

DATED: DEC -8 1982


MARIE K. SMITH, Court Reporter