

EXHIBIT 14  
DATE 2-16-15  
# HB 451

civil rights protection & advocacy system for montana

disability **rights**  
formerly Montana Advocacy Program montana

February 16, 2015

Re: HB 451 - Revise funding for students with disabilities

To the Members of the House Human Services Committee:

Disability Rights Montana supports HB 451, as it allows school districts in Montana to come into compliance with the Individuals with Disabilities Education Act.

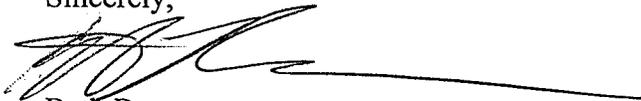
In 2013, the Ninth Circuit reversed a decision of the Hawaii federal district court that had upheld a Hawaii statute barring students from attending public school after the last day of the school year in which they turn twenty. The statute applied to all students, whether they were students with disabilities or not.

Meanwhile, however, the Hawaii Department of Education operated a network of adult education schools called the Community Schools for Adults. These schools offered free programs to earn a high school diploma, but did not offer IDEA services to students with disabilities.

In *E.R.K. v. Hawaii Department of Education*, the plaintiffs argued that this was contrary to the IDEA provision that guarantees a free, appropriate public education to all children with disabilities between the ages of three and twenty-one, inclusive, except to the extent that would be inconsistent with state law. The court looked to the legislative history of the IDEA, which made it clear that the age exceptions apply only when a state does not provide free public education to students without disabilities in the relevant age groups. Hawaii's Community Schools for Adults offer free public education consistent with the definition of that term in IDEA to non-disabled students, so the state violated the federal law.

Given that some Montana school districts to provide these type of educational services to non-disabled students, they would be in violation of the IDEA if they did not also offer services to special education students. HB 451 authorizes these school districts to offer these services and is prudent public policy.

Sincerely,



Beth Brenneman  
Staff Attorney