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Hearings on furloughs sought

Suit claims state violated its own rules by failing to discuss plan in public

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A federal lawsuit filed on behalf of special education students was amended yesterday to require the state to hold public hearings on the plan to furlough teachers on 17 Fridays.

In addition, the families of special education students are asking the U.S. Department of Education to intervene so the students won't lose any more days of education.

Arguments will be heard by U.S. District Judge David Ezra on Nov. 5 on the amended lawsuit, which claims the state violated its own Hawaii Administrative Procedures Act, which requires a public hearing for any changes to rules.

The state's furlough plan "was adopted in violation of the state's procedures," said Carl Varady, a Hawaii attorney representing nine families of special education students. "The Administrative Procedures Act is designed to prevent closed-door rule making and to give the public an opportunity to talk about these rule changes."

Department of Education spokeswoman Sandy Goya said yesterday, "I am unable to provide comment as the department has not seen the amended lawsuit."

The state's furlough plan affects 170,000 children in public schools. The furloughs are an attempt by the state to save money and help close the budget deficit.

But, by closing the schools, the furloughs adversely affect special-education students, Varaday has said.

The state's furlough plan did not provide for any alternatives for special education students.

The initial lawsuit was filed in federal court last week before the first "furlough Friday."

On Thursday, Judge Ezra ruled against a motion to block the state's plan to furlough teachers for 17 Fridays through the rest of the school year.

Special education students are guaranteed equal access to education under a law called the Individual with Disabilities Education Act, which governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible children with disabilities, according to the U.S. Department of Education.

Every special education student in Hawaii is given an Individual Education Plan, a written blueprint for the student's education.

At issue is how the furlough affects Individual Education Plans. Under the law, no changes can be made to the plans unless the parents, or a court or a hearings officer agrees to it, Varady said.
