

Date: 02/02/2011

Committee: House Education

**Department:** Education

**Person Testifying:** Kathryn Matayoshi, Superintendent of Education

**Title of Bill:** HB 0339

RELATING TO RECONSTITUTING SCHOOLS

**Purpose of Bill:**

Allows the superintendent of education to reconstitute a public school, except for certain charter schools. Allows the superintendent to recommend actions to charter school review panel, including the revocation of a school's charter.

**Department's Position:**

The Department supports this bill as written and urges its passage. This bill will clarify the authority of the superintendent in HRS302A-1114 to meet those duties found in HRS302a-1111. Passage of this bill will further demonstrate the support and commitment of the Hawaii State Legislature for transformative educational reform outlined in the Hawaii Race to the Top application.



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The Twenty-Sixth Legislature, State of Hawaii  
The House of Representatives  
Committee on Education  
Testimony by  
HGEA/AFSCME Local 152  
February 02, 2011

**H.B. 339 - Relating To Reconstituting Schools**

The Hawaii Government Employees Association, HGEA/AFSCME, Local 152, AFL-CIO opposes H.B. 339 Relating to Reconstituting Schools.

The State Constitution provides public employees the right to organize for the purposes of collective bargaining. Wages, hours and other terms and conditions of work are negotiable matters with HGEA as the exclusive representative of bargaining units 02, 03, 04, 06, 08, 09 & 13. We oppose any measure that seeks to circumvent our collective bargaining rights.

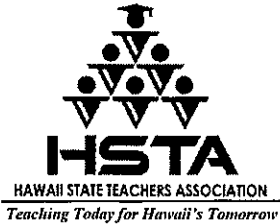
As written, this bill only requires the department to negotiate the process of reassigning employees of the school to other positions within the department for which the employees are qualified. This language is very limiting and presumes there are sufficient positions for the potential reassignment of employees. In view of WSF, recent reorganizations and overall budget constraints, we disagree.

Thank you for the opportunity to testify.

Respectfully submitted,

Leiomalama E. Desha  
Executive Assistant





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## TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION

RE: HB 339 – RELATING TO RECONSTITUTING SCHOOLS.

February 2, 2011

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Takumi, and Members of The Committee:

The Hawaii State Teachers Association strongly opposes HB 339, which authorizes the Superintendent of Education, notwithstanding collective bargaining agreements, memorandums of agreement, or memorandums of understanding, to reconstitute any public school, except a charter school. In essence, this bill will allow the superintendent to remove some or all school staff (principal, teachers, educational assistants, etc.) and replace them with a new staff. It is in this regard that HSTA is gravely concerned about the power granted by the bill. Our concerns are in three areas:

1. In Section 2, it states that the superintendent will be allowed to reconstitute a public school “notwithstanding collective bargaining agreements, memorandums of agreement, or memorandums of understanding . . .”

In a memo dated February 4, 2005, Superintendent Hamamoto stated that “restructuring of public schools in Hawaii shall follow all applicable federal, state or local laws, including policies, procedures, rules, regulations, due process, and appropriate collective bargaining agreement provisions. Specifically, all transfers and/or removal of school personnel from their assigned schools must follow appropriate School Code provisions, collective bargaining agreements, and due process procedures.”

The School Code, under Superintendent-Directed Transfers, states “The Superintendent may, in extraordinary situations, when considering the welfare of the students, the school or the good of the Department, direct the transfer of any teacher or any educational officer.” This section does not qualify restructuring as an extraordinary situation.

If the last statement from Superintendent Hamamoto's memo is accurate, the removal of some or all of a staff at a restructuring school is a breach of School Code, collective bargaining agreements, and due process procedures.

2. A counterproductive, negative message would be sent to Hawaii teachers. Teachers are already experiencing a hardship when they are being asked to ensure that their students are meeting standards, benchmarks, and AYP scores in reading and math, regardless of a student's circumstances, needs, or learning barriers. Knowing that the department is moving to the National Common Core Standards means more training and work in aligning curriculum with less time to meet collaborate and develop their school's plan for assessment and professional development causes more stress and angst amongst our teachers.

Now, with this bill the DOE proposes yet another huge morale buster for teachers threatening them with removal and transfer to another institution, not because of anything they have personal control over, but because the school as a whole is supposedly not performing at an acceptable level. If a teacher who is performing at a level of excellence is part of a staff to be removed, and he or she were reassigned, that would be unacceptable. If that teacher is kept in place and all other teachers and staff members are replaced, both the excellent teacher who loses trusted support people and the replaced teachers who lose a mentor will be negatively impacted. These are just a few issues that are troubling in regards to how this bill could affect teacher morale.

3. Race-To-The-Top and Schools of Innovation are topics of high interest in looking at Student Achievement. While the department, HSTA and other public sector unions are actively engaged in discussions on Reform Models it makes no sense to shuffle teachers from one restructured school to the next. Eventually all schools will end up in restructuring as the bar continues to be raised on AYP scores. We all know that every child will not get an A in all classes, and we know that every child will not achieve the required score in math and reading. When extended to its logical conclusion, NCLB becomes a grossly inferior imitation of serious education reform.

By now, it should be apparent that the NCLB law is, in fact, a travesty of a workable solution for the education challenges facing our state and our nation. HSTA believes that reconstitution based on NCLB benchmarks is an imprudent approach to addressing the problem of restructuring schools. We further believe that the discussions taking place in the Zones of Innovation and Race-To-The-Top provide a better opportunity to dialog problem solve as an Educational Community that can truly focus on every child's needs. Let's not react while we are trying to resolve our problems. In fairness to teachers, administrators, students, and parents let's make sure we have the infrastructure in place to assess standards that measure student

achievement and growth, provide for a fully functioning longitudinal data system that can be used to support student assessments and evaluations, ensure every classroom has a highly effective teacher in every school with the supports in place to sustain that and provide the wraparound supports in every school so that we truly help the lowest performing schools achieve. Moving personnel from one school to another without the necessary supports and infrastructures in place does not ensure student achievement. And isn't that what we all want and are trying to strive for a quality education providing every student every opportunity to be productive citizens who are college and career ready when they leave our public school system.

We strongly urge the committees to reject this bill.

Thank you for the opportunity to testify.

**TESTIMONY ON HOUSE BILL 339, RELATING TO RECONSTITUTING SCHOOLS**

House Committee on Education  
Hon. Roy Takumi, Chair  
Hon. Della Au Belatti, Vice Chair

Wednesday, February 2, 2011, 2:00 PM  
State Capitol, Conference Room 309

Honorable Chair Takumi and committee members:

I am Kris Coffield, editorial director of Fracturedpolitics, an emergent political action network born out of a weblog. Currently, the network boasts over 50 local members, though I offer this testimony only on behalf of myself, in opposition to HB 339.

Though I support efforts to improve the education being offered to Hawaii's children, I feel that HB 339 impedes, rather than advances, efforts to improve the state's school system. Though the federal No Child Left Behind Act mandates that all students be proficient in core subjects by 2014, granting the superintendent reconstitution authority, especially under the vague prescriptions provided for in this bill, is a recipe for disaster that subverts the collective bargaining process, while undermining the consistency needed to improve student performance.

Without question, Hawaii's education system faces challenges. As of last year, 91 local schools were undergoing restructuring, the highest level of state intervention afforded under NCLB. Since 2006, 106 of Hawaii's 286 public schools have entered restructuring. Unfortunately, HB 339, like the federal law it seeks to buttress, fails to acknowledge the myriad factors impacting student performance—parental involvement, economic status, nutrition, physical and psychological health, unfunded achievement mandates, to name just a few—and, instead, places all responsibility for student achievement at the feet of teachers, principals and school administrators. In essence, HB 339 discounts the overwhelming amount of data showing that standardized tests, which NCLB uses to evaluate the academic viability of a school, are an extremely limited method of evaluating performance, forcing teachers to “teach to the test,” schools to cut the budget of programs in non-core content areas such as the arts and languages (section §302A- (a)(1) instructs the superintendent to consider reading and math scores, but not other indicators of achievement, like advanced placement enrollment or graduation rate), and administrators to impose stricter hiring protocols at a time when teacher shortages are worsening. It is also worth noting that a shadow is cast over any bill predicated upon NCLB, this year, as the federal mandate's reauthorization is in jeopardy. Just last month, President Barack Obama called for replacing NCLB with standards-based learning programs that are “more flexible and focused on what's

best for our kids,” such as Race to the Top, which awarded Hawaii \$75 million for the implementation of progressive educational reforms, last August.

Moreover, section §302A- (a) of HB339 states “Notwithstanding collective bargaining agreements, memorandums of agreement, or memorandums of understanding, the superintendent may reconstitute a public school.” This contradicts previous statements released by the superintendent’s office, however, including a statement made, in 2005, that “restructuring of public schools shall follow all applicable federal, state or local laws, including policies procedures, rules, regulations, due process, and appropriate collective bargaining agreement provisions. Specifically, all transfers and/or removal of school personnel from their assigned schools must follow appropriate School Code provisions, collective bargaining agreements, and due process procedures.” As former Hawaii State Teachers Association President Roger Takabayashi pointed out during the 2010 legislative session, though, the School Code’s stipulations governing superintendent-directed transfers clearly state that transfers are to occur “in extraordinary situations, when considering the welfare of the students, the school or the good of the Department.” Neither the School Code nor HB 339 possess language defining restructuring as an “extraordinary situation” under which transfer may take place, despite section §302A- (c) of this measure directing the Department of Education to reassign employees of a reconstituted school to other positions within the department for which they are qualified.

Finally, the ambiguity of this measure indicates the highly subjective nature of evaluating education performance and could lead to unfair assessment. For example, section §302A- (a)(2) compels the superintendent to consider “other programs being used by the school to address student proficiency,” but does not state which or what kind programs; section §302A- (a)(3) requires the superintendent to consider the number of highly qualified teachers at a school, but does not provide a ratio of highly qualified teachers to students that would merit a passing grade; section §302A- (b)(3) allows the superintendent to change the membership of a school community council, but doesn’t specify whether such changes are to include composition of the council or the by-laws regulating council formation; and section §302A- (c) obliges the Department of Education to negotiate with “respective unions” on reassignment, but does not specify outright the extent to which such negotiations shall be subject to collective bargaining agreements. These are just a few of the clauses in HB 339 that deserve closer attention before the bill becomes law.

In summation, HB 339 sends the wrong message to all stakeholders in educational governance. At the very least, the bill should be deferred until 2012, when the status of NCLB will have been decided by the federal government. Mahalo for the opportunity to testify in opposition to this bill.

Sincerely,  
Kris Coffield  
*Editorial Director*  
Fracturedpolitics

**Ruth D. Tschumy**

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**February 2, 2011**

**2:00 P.M.**

**Conference Room 309**

**TESTIMONY TO THE  
HOUSE COMMITTEE ON EDUCATION**

**RE: HB339  
Relating to Reconstituting Schools**

**Testimony in Support of HB339**

Chair Takumi, Vice Chair Belatti, and Members of the Committee:

My name is Ruth Tschumy, and I'm chair of the Charter School Review Panel. Because the panel is under "Sunshine," and we were not able to agendaize this matter at last Thursday's meeting, I am writing as an individual in support of HB339. However, I believe that Panel members support this bill.

Schools that have been in NCLB restructuring status for four or more years and have not shown significant academic improvement are not serving their children. The Panel's reauthorization (Act 144, SLH 2010) procedures place heavy emphasis (50 points out of 100) on a charter school's educational viability.

Thank you for this opportunity to provide testimony.



## EDNtestimony

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**From:** Curtis Muraoka [director@whea.net]  
**Sent:** Tuesday, February 01, 2011 3:01 PM  
**To:** EDNtestimony  
**Subject:** HB339 Testimony

February 2, 2011

Testimony on Behalf of the Hawaii Charter Schools Network

Submitted by Curtis Muraoka, HCSN Vice-President

HB339  
Schools; Reconstitution

House EDN, Wednesday, 02-02-11 2:00PM in conference 309

**Description:**

Allows the superintendent of education to reconstitute a public school, except for certain charter schools. Allows the superintendent to recommend actions to charter school review panel, including the revocation of a school's charter.

**Testimony: Comments Only**

Aloha Chair Takumi, Vice-Chair Belatti, and Honorable members of the House Committee on Education:

HCSN humbly offers the following comments:

Public charters have long held a strong sense that the Superintendent serving in her role as SEA already has the ability to weigh in on ALL public education matters, including those related to public charter schools.

It has been our experience that the Charter School Review Panel is fully cognizant of, and responsive to, the challenges facing Hawaii's 31 public charter schools, and has developed a comprehensive method of evaluation and assistance. In addition, they are well aware of their obligations to work toward high performing, high quality public education.

The Hawaii Charter Schools Network is aligned with, and shares these same goals.

Thank you for this opportunity to comment on HB339.

Sincerely,

Curtis Muraoka  
Vice-President, Hawaii Charter Schools Network