

Date: 02/28/2011

Committee: House Finance

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 0339,HD1(hscr86)

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 HB339HD1 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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TESTIMONY ON HOUSE BILL 339, HOUSE DRAFT 1, RELATING TO RECONSTITUTING SCHOOLS

House Committee on Finance
Hon. Marcus R. Oshiro, Chair
Hon. Marilyn B. Lee, Vice Chair

Monday, February 28, 2011, 2:30 PM
State Capitol, Conference Room 308

Honorable Chair Oshiro and committee members:

I am Kris Coffield, representing the Imua Alliance, a nonpartisan political advocacy organization that currently boasts over 60 local members. On behalf of our members, we offer this testimony in opposition to HB 339, HD 1, relating to reconstituting schools.

While I support efforts to improve the education being offered to Hawaii's children, I feel that HB 339, HD 1 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. Right now, 92 local schools are undergoing restructuring, the highest level of state intervention afforded under NCLB. Since 2006, over 100 of Hawaii's 286 public schools have entered restructuring. Unfortunately, HB 339, HD1, 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, HD1 discounts the overwhelming amount of data showing that standardized metrics, which NCLB uses to evaluate the academic vitality 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, except a charter school, that has been in restructuring as defined by the No Child Left Behind Act of 2001...for four or more school years." 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, 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, HD1 possess language defining restructuring as an "extraordinary situation" under which transfers 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.

At the very least, the reassignment provisions of HB 339, HD1 should be amended to comport with the potential corrective actions enumerated in NCLB. According to Title I, Part A, Subpart 1, Sec. 1116(b)(8)(B)(ii) of the law, alternative governance arrangements enacted by local educational agencies may include replacing "all or most of the school staff (which may include the principal) **who are relevant to the failure to make adequate yearly progress.**" Thus, §302A- (b)(1) of this measure should be

amended to read: "Replacing all or most of the staff, including teachers, principals, and support staff, who are relevant to the failure to make adequate yearly progress." While this change may seem menial, its addition into the legislation affords a necessary layer of protection for high performance teachers and staff, and logically extends from the evaluation benchmark outlined in §302A- (a)(3), which affirms the need to consider the number of highly qualified or effective teachers at a school *prior* to the authorization of reconstitution. The suggested additional language is not redundant, however, because §302A- (a)(3) pertains to the process of determining whether or not a school should be reconstituted, while §302A- (b)(1) relates to the reconstitution process, itself, once initiated.

In summation, HB 339, HD1 sends the wrong message to all stakeholders in educational governance. Ideally, the bill should be deferred until 2012, when the status of NCLB will have been decided by the federal government. If the measure is to be adopted, though, it should include additional language to bring Hawaii's corrective procedures into alignment with those delineated by NCLB, including a clause stating that only teachers and staff germane to performance failure will be subject to replacement and/or reassignment. Mahalo for the opportunity to testify in opposition to this bill.

Sincerely,
Kris Coffield
Legislative Director
Imua Alliance