

NEIL ABERCROMBIE
GOVERNOR



KATHRYN S. MATAYOSHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 01/30/2013

Committee: House Education

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 0744 RELATING TO STUDENT BIAS

Purpose of Bill: Expands the prohibition against student bias based on sex in educational or recreational programs receiving financial assistance from or using facilities of the state or county by adding race, religion, and sexual orientation.

Department's Position:

The Department does not support this bill.

The Department believes that there are already federal laws and internal Board of Education (BOE) policies and Department complaint and investigation procedures to assure that students' civil rights are protected based on the person's race, religion, and/or sexual orientation. The BOE policies and federal laws provide additional protection to classes that go beyond the proposed law, and the range of activity protected is broader than situations involving use of facilities. Therefore, the Department does not support this bill, as there are laws already covering the federal protected basis and the BOE policies go beyond the federal basis to protect even more areas.

Thank you for the opportunity to testify on this measure.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
CARMILLE LIM
AMY MONK
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January 30, 2013

Testimony in Support of HB 744, Relating to Student Bias

To: Representative Roy M. Takumi, Chair
Representative Takashi Ohno, Vice-Chair
Members of the House Committee on Education

From: Cathy Betts, Executive Director, Hawai'i State Commission on the Status of Women

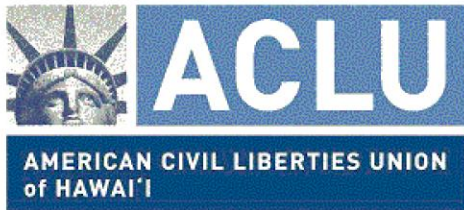
Re: Testimony in Support of HB 744

The Hawai'i State Commission on the Status of Women is in strong support of HB 744. This measure would prohibit discrimination on the basis of sex, race, religion and sexual orientation in any educational or recreational program or activity receiving state or county financial assistance or utilizing state or county facilities.

Discrimination has no place in our educational system. This measure broadens our existing law to protect additional classes of people. Further, it is consistent with federal anti discrimination laws such as Title IX, the Patsy T. Mink Equal Opportunity in Education Act (prohibiting gender based discrimination in any educational institution receiving federal funds). HB 744 is also consistent with the Equal Protection Clause of the United States Constitution, in that it seeks to prevent discrimination based on one's membership of a protected class. The Commission urges this Committee to pass HB 744.

Thank you for this opportunity to testify.

Cathy Betts
Executive Director
Hawaii State Commission on the Status of Women



Committee: Committee on Education
Hearing Date/Time: Wednesday, January 30, 2013, 2:00 p.m.
Place: Conference Room 309
Re: Testimony of the ACLU of Hawaii in Support of H.B. 744, Relating to Student Bias

Dear Chair Takumi and Members of the Committee on Education:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 744.

H.B. 744 would provide long overdue and much needed explicit state protection in publicly-funded educational or recreational programs and activities across the state by extending the prohibition against discrimination to a person’s race, religion and sexual orientation.

We respectfully request that you amend the bill to include “actual or perceived sexual orientation or gender identity” and add specific remedies for victims modeled after Title IX of the Education Amendments of 1972, and the Department of Education civil rights rules applicable to all schools receiving ESEA funds.

Nearly 50 years of civil rights history clearly demonstrate that laws similar to H.B. 744 are often most effective in preventing discrimination from occurring in the first place. While state law currently protects students on the basis of their sex, no state statute explicitly protects students on the basis of race, religion and actual or perceived sexual orientation or gender identity. The recent tragic deaths of young gay students from across the country underscore the fact that LGBT students are an especially vulnerable population in our nation’s schools. Discrimination and harassment, even physical abuse, are often a part of these students’ daily lives.

The U.S. Department of Education has listed the effects of harassment in school as including lowered academic achievement and aspirations; increased anxiety; loss of self-esteem and confidence; depression and post-traumatic stress; general deterioration of physical health; self-harm and suicidal thinking; feelings of alienation in the school environment, such as fear of other children; and absenteeism from school. As a state, we must do a better job of protecting our students and ensuring their rights to an education free of discrimination and harassment.

H.B. 744 would have a profound impact in improving the lives of students by ensuring that discrimination and harassment of students on the basis of their sex, race, religion or actual or

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Chair Takumi and EDN Committee Members
January 30, 2013
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perceived sexual orientation or gender identity has no place in our state's publicly-funded educational and recreational programs and activities.

Thank you for this opportunity to testify.

Sincerely,
Laurie A. Temple
Staff Attorney and Legislative Program Director
ACLU of Hawaii

About the American Civil Liberties Union of Hawaii

The American Civil Liberties Union of Hawaii ("ACLU") has been the state's guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii.

The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy.

The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society's most vulnerable members are denied, everyone's rights are imperiled.

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TESTIMONY FOR HOUSE BILL 744 RELATING TO STUDENT BIAS

House Committee on Education
Hon. Roy M. Takumi, Chair
Hon. Takashi Ohno, Vice Chair

Wednesday, January 30, 2013, 2:00 PM
State Capitol, Conference Room 309

Honorable Chair Takumi and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in strong support of, with proposed amendments for House Bill 744, relating to student bias.

We fully support expansion of of HRS 302A-1001, Hawaii's statute prohibiting bias in educational and recreational programs. That said, we believe that the current expansion proposed by this measure is too narrow, extending anti-discrimination protections to race, religion, and sexual orientation, but leaving out myriad other identity categories.

To cover more students, we propose amending the bias prohibition to cover all identity categories covered by the state's public accommodations law, including gender identity or expression, ancestry, and disability. We also urge the committee consider expanding the prohibition to include several identity categories not currently contained in the public accommodations law, such as ethnicity, national origin, age, economic status, and familial status.

The following language would accomplish these changes, as well as those already envisioned in the measure: "**[§302A-1001] Student bias.** No person in the State, on the basis of sex, **gender identity or expression, race, religion, sexual orientation, disability, ethnicity, ancestry, national origin, age, economic status, or familial status** shall be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any educational or recreational program or activity receiving state or county financial assistance or utilizing state or county facilities."

Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance