



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

**Date:** 03/28/2014

**Committee:** House Finance

**Department:** Education

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

**Title of Bill:** SB 2423,SD2(hscr999-14) RELATING TO THE DEPARTMENT OF EDUCATION.

**Purpose of Bill:** Allows schools and classes to participate in fundraising or charitable activities, in conjunction with a charitable organization that is a 501(c)(3) tax-exempt organization and registered under section 467B-2.1, HRS, or granted an exception from registration under section 467B-11.5, HRS, based on criteria established by the board of education. Effective 7/1/2050. (SD2)

**Department's Position:**

The Department of Education strongly supports the substantive content of SB 2423 SD2 because we believe it is critically important for students and schools to partner with non-profit community organizations to foster civic engagement and service learning. Moreover, we believe that school or class participation in fundraising or charitable activities directly promote character education pursuant to Board of Education Policy 2109 (Character Education) which provides in relevant part:

*The vitality and viability of our democratic way of life are dependent on all students developing into responsible and caring citizens who respect themselves, others, and the world in which they live. Character education is the process through which students are provided opportunities to learn and demonstrate democratic principles and core ethical values such as civic responsibility, compassion, honesty, integrity, and self-discipline. . . .*

*Character education must be incorporated into the curriculum at each grade level in the public schools. For character education to flourish, it must be infused into the culture of each classroom as well as the entire school. Students need continuing, real-life opportunities to learn to act morally and ethically. The ultimate objective is the development of students who make virtues integral parts of their personality.*

Further, school projects involving fundraising or charitable activities provide opportunities for youth to apply what they have learned in the classroom to real world situations. Beyond fundraising, the activities give students a sense of accomplishment, responsibility and independence. Engaged students work alongside staff, parents, and community members to ensure long lasting and meaningful contributions to their schools, communities and organizations.

This bill, which provides the authority under HRS Chapter 302A relating to Education, will allow our students to engage as described above. We therefore ask for your favorable consideration of this measure and a correction to the effective date that is contained in Section 3.



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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March 28, 2014

The Honorable Sylvia Luke, Chair  
The Honorable Scott Y. Nishimoto, Vice Chair  
The Honorable Aaron Ling Johanson, Vice Chair  
House Committee on Finance  
Hawaii State Capitol, Room 306  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **S.B. 2423, S.D. 2, Relating to the Department of Education**

Hearing: Friday, March 28, 2014, 3:00 p.m.  
State Capitol, Conference Room 308

The Honorable Sylvia Luke, Chair; The Honorable Scott Y. Nishimoto, Vice Chair;  
The Honorable Aaron Ling Johanson, Vice Chair; and The Honorable Members of  
the House Committee on Finance:

The Hawaii State Ethics Commission has strong concerns about S.B. No. 2423, S.D. 2. The Commission urges the Committee to fully consider and understand the broad scope of the bill and the possible (and maybe even likely) application of the provision.

The State Ethics Code does not allow a state employee to use his position to give himself or others an “unwarranted advantage” or special treatment. Haw. Rev. Stat. § 84-13. The statute also specifically prohibits the use of “state time, equipment or other facilities for private business purposes.” Haw. Rev. Stat. § 84-13(3). “Business” is defined in the statute to include both for-profit and non-profit organizations. Haw. Rev. Stat. § 84-3.

This bill, in essence, will create an exception to the State Ethics Code’s provision that prohibits using state resources for private business activities. It will allow public school administrators and teachers to dedicate class time, school facilities, and other resources to fundraise for, or to otherwise support, a private, non-profit organization, no matter the mission or purpose of the non-profit organization. It will allow public school administrators and teachers to direct students to participate in fundraising and charitable activities, irrespective of whether the student’s parents know of and support the non-profit organization.

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The Commission appreciates the intent of the bill: To enrich student learning, improve the school environment and support school programs. The Commission also appreciates that schools and school employees may be eager to support a non-profit organization, particularly a popular organization. However, as written, the bill is extremely broad, allows fundraising for any non-profit organization without any guidance or controls, and raises numerous concerns. The Commission offers the following as examples of issues that the Committee should consider:

- Although there are many worthy charities, there are also many non-profit, 501(c)(3)-type organizations which are not widely accepted, which may have a mission that is inconsistent with or objected to by some school employees and/or parents. Stated differently, one teacher's belief that a charity or its cause is worthy may not be universally shared. For example, Hawaii Right to Life Education Fund, Planned Parenthood, and Hawaii Family Forum are non-profit organizations whose missions may not be universally supported by teachers, students, and/or parents. The bill will allow fundraising for any and all of these organizations.
- Given the number of non-profit, 501(c)(3)-type organizations, there invariably will be issues relating to why a public school administrator or teacher supported one charity but not another (i.e., is it fair for a school employee to choose which charity is more "worthy" and to allow public school resources to be used to fundraise for or support that charity rather than another charity). For example, is it "fair" for a public school to fundraise for and support the Susan G. Komen Foundation, but not Make-A-Wish, the American Heart Association or the American Diabetes Association?
- Where a school administrator or teacher (or the employee's spouse) is involved with a non-profit organization (e.g., the school principal is a director on the non-profit's board or the teacher's spouse works for the non-profit) and the administrator or teacher elects to use students, school time, and other school resources to fundraise for or support the non-profit organization, there likely are concerns as to whether the administrator or teacher misused his position to cause school resources to be dedicated to support that charity. Similarly, there may be questions about whether the administrator or teacher has a conflict of interest in allowing school

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resources to be used to support an organization. For example, a teacher's daughter is a girl scout and she uses class time and student labor to sell girl scout cookies; or the principal's son plays Pop Warner football and he fundraises at school, during school hours, and using the school equipment to support the team; a school principal's spouse is employed by the American Cancer Society and allows fundraising for the organization at the school.

- Given that students and their parents likely will be asked to participate in fundraising if it is a school-sanctioned activity, the Commission suggests that the Committee consider that students are unlikely able to decline their teacher's request that they participate in the fundraising activities. Moreover, school-sponsored fundraising activities may create or facilitate an environment where certain families feel "pressured" to participate notwithstanding their limited financial resources or objection to the organization and/or its mission.

The Commission realizes that some of these issues may eventually be addressed in the rule making requirements of this bill; however, the Commission strongly suggests that the State Ethics Commission is able to provide more comprehensive and clearer guidance to the Department and its employees than the rules that may be promulgated pursuant to this bill.

Recently, the Commission has received many complaints and questions relating to fundraising and other charitable activities in schools and in other state offices. Some of the inquiries endorse using state resources for such activities; however, many others clearly object to state resources being used to support private charitable activities.

In the near future, the Commission intends to consider, comprehensively, the application of the State Ethics Code to such fundraising activities by state employees and expects to issue broad guidance on the matter. Many of the concerns expressed by the Superintendent and other school employees as well as by other state agencies that this bill may be attempting to address will be considered by the Commission. **For that reason, the Commission suggests that the Committee defer the bill until after the Commission has had an opportunity to thoroughly consider the issues and the application of the State Ethics Code.**

Thank you for the opportunity to testify on S.B. No. 2423, S.D. 2.





Friday, March 28, 2014  
3:00 PM  
Conference Room 308

TESTIMONY TO  
THE HOUSE COMMITTEE  
ON FINANCE

**RE: SB 2423 SD2 – Relating to the Department of Education**

Chair Luke, Vice Chairs Nishimoto and Johanson, and members of the Committee:

My name is Robert Witt, Executive Director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 students statewide.

**HAIS is in strong support of SB 2423 SD2** which allows schools and classes to participate in fundraising or charitable activities, in conjunction with a charitable organization that is a 501(c)(3) tax-exempt organization and registered under section 467B-2.1, HRS, or granted an exception from registration under section 467B-2.1, HRS, to enhance the school environment for the betterment of student learning.

As you already know, the price of a high quality education is quite lofty and funding for education, without fail, falls well short of what is necessary to provide the learning experiences that are crucial for increased student success in school and life. The per pupil allocation of funds provided by the state currently only covers a percentage of the cost to educate an individual.

It is therefore imperative that schools and classes are allowed to participate in fundraising activities that benefit student learning, as this is a positive way of engaging the school community in service learning as they make meaningful contributions to the school.

Our private schools rely heavily on fundraising activities such as capital campaigns or various fundraisers for student scholarships; this has proven to be a very effective way of supplementing the cost of education.

Thank you for the opportunity to testify in strong support of this measure.

**finance8-Danyl**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 26, 2014 6:16 PM  
**To:** FINTestimony  
**Cc:** autumnrose2010@yahoo.com  
**Subject:** Submitted testimony for SB2423 on Mar 28, 2014 15:00PM

**SB2423**

Submitted on: 3/26/2014

Testimony for FIN on Mar 28, 2014 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wynnie Hee	Individual	Oppose	No

Comments: Ian Lind makes a good case for deferring this bill. While the intent may have been good, this bill will open a can of maggots. For example, "The "fair treatment" provision of the state ethics code is generally regarded as prohibiting a state employee or official from pressuring subordinates to support a favored political candidate, political party, or charitable organization....creating the broad ethics exemption proposed for the Department of Education will inevitably lead to administrators or teachers misusing their positions of authority to benefit only selected, favored organizations with generous fundraising support, and could make enforcement of "fair treatment" guidelines generally more difficult." <http://www.civilbeat.com/posts/2014/03/26/21603-hawaii-monitor-charitable-impulse-wont-make-good-law/> And when fundraising is a school-sanctioned activity, can students decline to participate?

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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