



# HAWAII STATE ETHICS COMMISSION

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

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Committee: Committee on Education  
Bill Number: S.B. 1287, Relating to Ethics  
Hearing Date/Time: Friday, February 10, 2017, 2:45 p.m.  
Re: Testimony of the Hawaii State Ethics Commission  
**IN OPPOSITION** to S.B. 1287

Dear Chair Kidani and Committee Members:

The Hawaii State Ethics Commission (“Commission”) opposes S.B. 1287, which seeks to exempt certain conduct from the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

The Commission respectfully submits that this measure is unnecessary, in light of the agreement reached between the Hawaii State Teachers Association (“HSTA”) and the Commission regarding teacher-led travel. That agreement is available in full on the Commission’s website, at <http://tinyurl.com/HSTA-HSEC-agreement>.

The Commission understands and appreciates the Legislature’s (and the public’s) concerns regarding teacher-led travel. Pursuant to the above-referenced agreement, however, teachers may continue to plan trips and serve as chaperones with private tour companies, subject to Board of Education policies. Typically, tour companies allow one chaperone to travel for free for every eight or ten travelers who pay for the tour; under the agreement announced today, this arrangement can continue, so long as teachers inform students and their families in advance that the teacher’s travel will be paid for by the tour company. The agreement also states that teachers may not collect any personal “perks” (such as tablet computers) for selling or leading trips, but may pass those rewards along to the Department of Education for use in the classroom. The tours must also satisfy Department of Education policies that trips have “educational benefits [that] are clearly linked to and support ongoing standards-based classroom studies.”

As written, however, this measure creates uncertainty regarding which employees, and which activities, are subject to the Ethics Code; this measure also results in confusion regarding the applicability of the fair treatment law, HRS § 84-13, in cases where state officials use their state positions to obtain additional compensation. Problematically, the measure appears to give the Department of Education authority to determine whether certain conduct satisfies the Ethics Code, when the Hawaii Constitution, article XIV, requires that the Ethics Commission make those determinations.

Additionally, these exemptions contravene Hawaii's constitutional mandate that public officers and employees exhibit the highest standards of ethical conduct.<sup>1</sup> This bill would set a dangerous precedent, as individual agencies or programs may seek to carve out exceptions to the Ethics Code (thus taking a strong regulatory framework to promote integrity in state government and weakening it through a series of exceptions).

Recent national events demonstrate the importance of ensuring that all government officials – at all levels of government – be held to uniform, fair, and reasonable ethical rules. As such, the Commission respectfully requests that the Committee defer this measure.

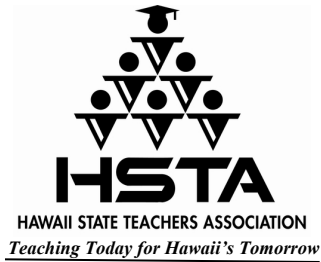
Thank you for considering the Commission's testimony on S.B. 1287.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel

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<sup>1</sup> Hawaii Constitution, Art. XIV.



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Corey Rosenlee  
President

Justin Hughey  
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Amy Perruso  
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Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON  
EDUCATION

RE: SB 1287 - RELATING TO ETHICS

FRIDAY, FEBRUARY 10, 2017

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Kidani and Members of the Committee:

The Hawaii State Teachers Association **supports SB 1287**, relating to ethics.

If passed, this bill will allow teachers to engage in extracurricular service without having to incur extra costs to pay for their own travel expenses. Each year, educators donate their time to prepare field trips that broaden learning beyond the classroom. Educators give up their own free time to provide students with these trips, which often entail chaperone costs paid by parents. In the past, parents were willing to pay these costs because they saw the educational value of “school-sponsored trips.” These field trips were optional; parents did not *expect* teachers to sacrifice time outside of the workday or work for free.

Yet, in 2015, the State Ethics Commission ruled that teachers could no longer accept “free travel” to accompany students on school-sponsored trips. This ruling been devastating for teachers who coordinate extracurricular learning excursions, from band trips to visits to our nation’s capital to forays into foreign countries. The Ethics Commission’s ruling led to the cancellation of trips that had been planned for months, if not years. In the wake of this summer’s ruling, teachers immediately put planned trips on hold. For example, Kapolei High School’s band director, Daryl Agena, halted plans to take his students to the mainland to perform, as they had done at Disneyland in 2014. Additional trips may not have been officially cancelled because teachers stopped planning altogether them in the aftermath of the commission’s decision.

It has been suggested that the ethics problem raised by the commission can be solved by asking school administrators to coordinate school-sponsored trips on teachers' behalf. Unfortunately, administrators are already overtasked with managing innumerable tasks, like unnecessarily cumbersome teacher evaluations. More importantly, administrators are not intimately familiar with student needs or the nexus between school-sponsored trips and classroom curricula, and thus would not be well equipped formulate travel plans that bring classroom material to life.

HSTA hoped that this matter would be resolved by now. This January, we reached an agreement with the Hawai'i State Ethics Commission that allows teachers to resume planning and serving as chaperones for student trips. The agreement also states that teachers may not collect any personal perks (such as iPads) for selling or leading trips, but may donate those gifts to the Department of Education for classroom use. We subsequently learned, however, that according to the agreement, teachers are only able to fundraise for trips that are coordinated through a third-party tour company, which only applies to a select portion of educational trips.

Hawai'i teachers, being the lowest paid in the nation, cannot afford to pay for travel expenses out of their own pockets. The longer we delay exempting teachers for travel, the more students are denied worthwhile educational experiences. Accordingly, the Hawaii State Teachers Association asks your committee to **support** this bill.



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COMMITTEE ON EDUCATION  
Friday, February 10, 2017 2:45 p.m., Room 229  
SB1287 Relating to Ethics

Janet Mason, Legislative Committee, League of Women Voters

Chair Kidani, Vice-Chair Harimoto and Committee Members:

**The League of Women Voters of Hawaii opposes HB 1287** which (under certain circumstances) exempts the “extracurricular” service of state employees from the ban on accepting gifts under the State Ethics Code if certain conditions are met.

It is not clear whether **this measure is intended to carve out all state employees**, not just Department of Education Employees. As written it appears to carve out an exemption for all state employees.

We don't believe this measure is necessary. The bill apparently arises from a dispute between the Hawaii Teachers Association and the State Ethics Commission which we thought was resolved. In January, the Ethics Commission and the Hawaii State Teachers Association reached an agreement regarding teachers serving as chaperones on school-related trips. This agreement allows teachers to accept free air fare and hotel accommodations while serving as chaperones on educational trips that comply with current or future Department of Education rules. But the agreement prohibited teachers from accepting additional gratuities from travel companies, such as stipends, iPads, or travel vouchers, although these can be accepted if DOE rules allow them to be accepted by the schools or the department.



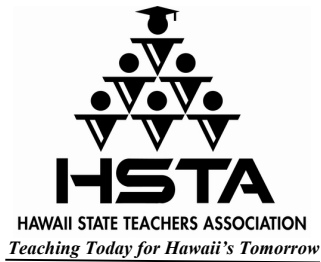
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Unfortunately, the definition of “detached remuneration” in this measure seems to reinstate permission for teachers serving as chaperones to accept both travel and other benefits in exchange for their “extracurricular service.”

Let’s get back on track to properly support the many dedicated school employees who recognize the value of enrichment trips outside of the classroom. This would mean no more efforts to create an unnecessary exemption to the state Ethics Code and improper dilution of state ethics statutes.

Every step forward promoting ethical conduct helps improve public confidence in government, and this bill is a giant step backwards. Our State Constitution, Article XIV, says that the Ethics Code is established “so that public confidence in public servants will be preserved.” We applaud all positive efforts to help public employees better understand and avoid actions, whether inadvertent or conscious, that would violate the Ethics Code.

We urge you to hold this bill. Thank you for the opportunity to submit testimony.



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