



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1489, H.D. 1, S.D. 1, RELATING TO CIVIL RIGHTS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, April 3, 2018

TIME: 9:15 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): WRITTEN TESTIMONY ONLY. For more information, call
Anne T. Horiuchi, Deputy Attorney General or
Melissa J. Kolonie, Deputy Attorney General at (808) 586-1255

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General (“Department”) appreciates the intent of this bill and provides the following comments.

The purpose of this bill is to prohibit discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance.

The Department notes that existing state laws already provide for the protections contained in this bill. For example, article X, section 1 of the Hawai‘i Constitution states that “[t]here shall be no discrimination in public educational institutions because of race, religion, sex or ancestry[.]” Moreover, § 302A-461 of the Hawai‘i Revised Statutes provides for gender equity in athletics, and further states that there is no private right of action arising from that section.

The Department is concerned that the private right of action allowed by the current wording of this bill would not necessarily address the root cause of perceived problems and could negatively impact the legislature’s ability to manage the State treasury by setting priorities through litigation, rather than legislation. Moreover, if a prevailing complainant is allowed attorney’s fees as a matter of right or at the discretion of the court, this will impact the State treasury. While we acknowledge that this is a policy issue for the legislature to decide, we want to be sure the Committee understands

that creating a right to a private cause of action and potentially the recovery of attorney's fees in such actions will result in a waiver of the State's sovereign immunity and consequently increase the State's liability.

The Department respectfully suggests that the Committee consider amending the bill to provide for injunctive relief only, rather than a private cause of action, and to impose a cap on an award of attorney's fees, if such an award to a prevailing complainant is allowed. Such amendments would ensure that the treasury will not be negatively impacted by private lawsuits, so that State funds can instead be appropriated for corrective action needed by the educational institutions to the benefit of all students. The Department also suggests that a resolution, rather than this bill, be adopted to allow the DOE to administratively address these concerns through its rule making authority by amending its student discipline rules (Chapter 8-19) and its civil rights rules (Chapter 8-41).

Thank you for the opportunity to provide these comments.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
MARILYN LEE
JUDY KERN
AMY MONK
LISA ELLEN SMITH

Executive Director
Khara Jabola-Carolus

Email: kjabola-carolus@dhs.hawaii.gov

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

April 2, 2018

To: Sen. Taniguchi, Chair
Sen. Rhoads, Vice Chair
Honorable Members of the S. Committee on Judiciary

From: Khara Jabola-Carolus
Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB1489 HD1 SD1 With Amendments

On behalf of the Commission on the Status of Women, mahalo for this opportunity to testify in strong support of HB1489 HD1 SD1, with amendments. HB1489, if passed, would fill in the gaps where the federal law is failing by prohibiting sex discrimination, including discrimination based on sexual orientation and gender identity, in any educational program or activity receiving state funding.

The Patsy Takemoto Mink Equal Opportunity in Education Act (Title IX) of 1972 is now the focus of intense local interest. A state corollary to Title IX is critically needed in light of the current federal administration's systematic effort to dismantle federal anti-discrimination laws. The University of Hawai'i's recent Climate Survey Report further underscores the importance of a state Title IX because it revealed the persistence of sex discrimination, including sexual harassment and violence, on Hawai'i campuses. This data is genuinely troubling given that the Hawai'i State Department of Education (DOE) is only beginning to inch in the direction of meaningful compliance with Title IX.

In January 2018, findings from U.S. Department of Education Office for Civil Rights (OCR) compliance review showed the University of Hawai'i failed its obligations under Title IX and mishandled cases of sexual harassment and gender violence. In regard to athletics, the DOE's own 2016 Statewide Athletic Plan revealed that fourteen (14) DOE high schools "do not have separate athletic locker facilities for girls, even when boys in those same schools do have such facilities." DOE has not provided a plan to address these violations of Title IX. The public deserves more than assurances of compliance.

The Commission supported HB1489 during the 2017 Legislative Session and is appreciative of the Legislature's efforts to address Title IX compliance through this measure. **The Commission strongly recommends that organizational standing be included in the final measure to allow for organizations to sue on behalf of students who do not wish to bring suits in their own names due to fear of bullying and retaliation.** Thereby, the Commission requests that you pass this important measure with the requested amendment.

Sincerely,

Khara Jabola-Carolus



Committee: Senate Committee on Judiciary
Hearing Date/Time: Tuesday April 3, 2018, 9:15 a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawai'i in **Support** of H.B. 1489, H.D. 1 S.D. 1, Relating to Civil Rights

Dear Chair Taniguchi, Vice Chair Rhoads, and Committee Members:

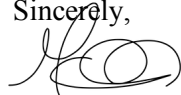
The American Civil Liberties Union of Hawai'i ("**ACLU of Hawai'i**") writes in **strong support** of H.B. 1489, H.D. 1 S.D. 1, which extends the protections of the Patsy T. Mink Equal Opportunity in Education Act, also known as Title IX, against discrimination on the basis of sex, including sexual orientation and gender identity or expression, to all students participating or seeking to participate in state and state-funded educational programs and activities.

Since its enactment in 1972, Title IX has made a tremendous difference in student's lives. Most people know of Title IX primarily because of its dramatic impact on women's athletics, but that is only part of the story. In addition to ensuring equal access to the athletic field, Title IX also mandates that the academic environment be free from gender-based violence, harassment, and bullying, prohibits sex-segregated programs that are based on and reinforce gender stereotypes, and protects the rights of pregnant and parenting students to continue and complete their education. These protections are unfortunately under attack at the Federal level.

This bill responds to the U.S. Department of Education's recent rescission of Title IX guidance related to sexual assault and the Trump administration's reversal of the federal government's previous interpretation of the prohibition against discrimination based on "sex," which included protections against discrimination based on sexual orientation and gender identity and expression. By passing a state corollary to Title IX, the State of Hawai'i can:

1. ensure that state and state-funded educational programs do not discriminate against LGBTQ students;
2. allow the reinstatement of the protections to survivors of sexual harassment or sexual assault; and
3. extend Title IX protections to students participating in all state and state-funded educational programs without regard to whether such program receives Federal funding or not.

We respectfully request that your Committee vote to pass H.B. 1489, H.D. 1 S.D. 1. Thank you for the opportunity to testify.

Sincerely,

Mateo Caballero
Legal Director
ACLU of Hawai'i

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
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E: office@acluhawaii.org
www.acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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COMMITTEE ON JUDICIARY

Senator Brian Taniguchi, Chair

Senator Karl Rhoads, Vice Chair

Tuesday, April 3, 2018

9:15 am

Room 016

STRONG SUPPORT for HB 1489 HD1, SD1 - CIVIL RIGHTS - TITLE IX

Aloha Chair Taniguchi, Vice Chair Rhoads and Members of the Committee!

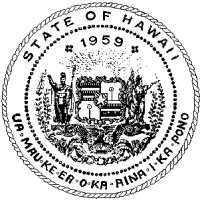
My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of all the people who have died in our facilities including, JESSICA FORTSON, JOEY O'MALLEY, DAISY KASITATI, ASHLEY GREY. and the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

HB 1489 HD1, SD1 prohibits discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance. Takes effect on 7/1/2019. (SD1)

Community Alliance on Prisons is in strong support of this measure. A state corollary to the Patsy Takemoto Mink Equal Opportunity in Education Act (Title IX) is critically needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws. On February 22, 2017, Secretary of Education Betsy DeVos withdrew Department of Education guidance on the protection of transgender children in public K-12 schools and stated that the matter should be dealt with at the state level. As federal protections against sex, gender, and sexual orientation discrimination in education weaken, the need for a state Title IX equivalent becomes increasingly important.

The University of Hawai'i's recent Climate Survey Report further underscores the importance of a state analog to Title IX because it revealed the persistence of sex discrimination, including sexual harassment and violence, on Hawai'i campuses. This data is genuinely troubling given that the Hawai'i State Department of Education (DOE) is only beginning to inch in the direction of meaningful compliance with Title IX. Please ensure the civil rights of all Hawai'i people and underscore the importance of Title IX from one of Hawai'i's awesome daughters - Patsy Mink. Mahalo for this opportunity to testify. As Patsy Mink counseled:

*We have to build things that we want to see accomplished, in life and in our country,
based on our own personal experiences...to make sure that others...
do not have to suffer the same discrimination.*



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

April 3, 2018
Rm. 016, 9:15 a.m.

To: The Honorable Brian T. Taniguchi, Chair
Members of the Senate Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 1489, H.D.1, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports H.B. No. 1489, H.D.1, S.D.1.

If enacted, H.B. No. 1489, H.D.1, S.D.1, would establish a state corollary to Title IX of the Civil Rights Act of 1972, the Patsy Mink Equal Opportunity in Education Act, by amending HRS chapter 368 to add a new section prohibiting discrimination on the basis of sex, including gender identity or gender expression, and sexual orientation in state educational programs and activities, or in any educational program or activity that receives state financial assistance. This new section is placed in HRS chapter 368, assigning enforcement jurisdiction to the HCRC, and providing for enforcement procedures and remedies under that chapter.

The new statute defines both “state educational programs and activities” and “educational programs and activities that receive state financial assistance.” It is critically important to include these definitions which make it expressly clear that the legislature does not intend to exclude educational programs and

activities that also receive federal funds from coverage under the new state law. This, in light of a recent Hawai‘i Supreme decision in *Hawai‘i Technology Academy and the Department of Education, State of Hawai‘i, v. L.E. and Hawai‘i Civil Rights Commission*, 141 Hawai‘i 147 (2017), holding that in enacting the HRS § 368-1.5 prohibition against disability discrimination in “programs and activities receiving state financial assistance,” the legislature intended to limit jurisdiction to state agencies and other entities that do not receive federal funding.

Under state and federal fair employment laws, HRS chapter 378, part I, and Title VII of the Civil Rights Act of 1964, employees in state educational programs and activities are protected against sex discrimination including sexual harassment. State civil rights law does not provide such protections for students in state educational programs and activities. Under federal courts’ interpretation, students have no Title IX claim for relief for sexual harassment, absent a showing of “deliberative indifference.” See *Gebser, et al. v. Lago Vista Independent School District*, 524 U.S. 274 (1998). It makes little sense that adult employees are provided greater legal protections against sexual harassment in state educational programs than students, including children. H.B. No. 1489, H.D.1, S.D.1, addresses this anomaly.

H.B. No. 1489, H.D.1, S.D.1, also adds, in subsection (b) of the new HRS section, a direct cause of action for students for sexual harassment or sexual assault and infliction of emotional distress or invasion of privacy related thereto, similar to that provided for employees under § 378-3(10). This allows a student to file a civil action directly in court, without exhausting administrative remedies, within two years of the last act of sexual harassment, rather than the 180 day statute of limitations for filing a complaint with the HCRC. This exception is based on recognition that it may be difficult for a student to come forward to file a complaint within the shorter 180 day time limit.

Discussion of a Proposed S.D.2

It is our understanding that representatives of the Attorney General and the University of Hawai‘i have engaged the proponents of a state Title IX corollary in discussion of a possible compromise draft that would prohibit discrimination on the basis of sex, including gender identity or gender expression, and sexual

orientation in state educational programs and activities, or in any educational program or activity that receives state financial assistance, but would limit relief available for violations of the new law to equitable remedies, including individual injunctions, and reasonable attorney's fees and costs, including expert witness fees and special master fees.

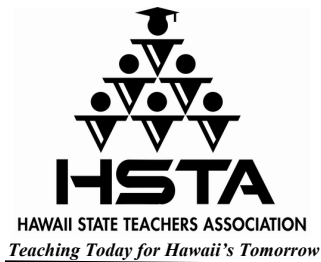
Based on our understanding of what has been discussed, and to the extent that a Proposed S.D.2 reflects the compromise described above, the HCRC continues to support the intent of this bill, to establish a strong state Title IX corollary, with the following serious concerns:

The elimination of individual monetary relief for students leaves student victims of sexual harassment with less protection than provided for adult employees, an anomaly that was addressed in H.B. No. 1489, H.D.1, S.D.1. A Proposed S.D.2 should expressly provide that this limitation does not diminish rights or preclude civil actions in tort or under other laws.

The elimination of individual monetary relief, including compensatory damages, will discourage complainants and plaintiffs from coming forward to file complaints under the new law. The HCRC and the circuit courts will still have jurisdiction over their complaints, but will not be able to offer remedies to make individual complainants whole. Both the HCRC enforcement process and court litigation are complaint-driven. If relief is limited to injunctive relief, attorney's fees, and costs, the new statute should provide for organizational standing to file complaints on behalf of individuals or a class.

The HCRC has strong concern over the creation of a new statutory civil rights protection under its jurisdiction that is "less than" the other laws we enforce, which prohibit discrimination in employment, housing, and public accommodations. If the legislature chooses to pass this new statutory protection with limited remedies, the HCRC urges that its intent be clear: Provision for limited relief for violations of the new law is not intended to erode existing Hawai'i civil rights laws that are stronger in many respects than federal civil rights laws, and does not invite requests for statutory carve-outs or signal a flagging commitment to civil rights.

With these concerns noted, the HCRC continues to support the intent of this bill.



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Corey Rosenlee
President
Justin Hughey
Vice President
Amy Perruso
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON
JUDICIARY

RE: HB 1489, HD 1, SD 1 - RELATING TO CIVIL RIGHTS

TUESDAY, APRIL 3, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Taniguchi and Members of the Committee:

The Hawaii State Teachers Association **supports HB 1489, HD 1, SD 1**, relating to civil rights.

Last year, President Donald Trump rescinded protections for transgendered students that had been put into effect by former President Barack Obama. This move was just the latest in a series of attacks on civil rights by the Trump administration causing concern for public school teachers, who are also worried about continued repeals of LGBT and immigrant protections by the Trump administration, threats to Title IX programming, and rising rates of LGBT bullying nationwide.

Discrimination in all forms is morally reprehensible. Hawai'i has a history of recognizing and defending against discrimination toward the LGBT community, carrying the distinction of being the state that inaugurated the legal battle for marriage equality in the landmark *Baehr v. Miike* ruling in 1993. Similarly, Board of Education Policy 305.10 prohibits discrimination under any DOE program and HRS Chapter 489 bans discrimination in public accommodations, including on the basis of gender or sexual orientation. It is imperative that in an era of uncertainty about LGBT rights, we strengthen protections in state law that are under clear and present danger of elimination by the federal government.

To advance civil rights for LGBT families and their keiki, the Hawaii State Teachers Association asks your committee to **support** this bill.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Judiciary
April 3, 2018 at 9:15 a.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 1489 HD1 SD1 – RELATING TO CIVIL RIGHTS

Chair Taniguchi, Vice Chair Rhoads, and members of the committee:

Thank you for the opportunity to present testimony on HB 1489 HD1 SD1 – Relating to Civil Rights. The University of Hawai'i ("University") strongly supports the intent of this bill, and thanks the Women's Legislative Caucus for its continuing focus on bringing awareness to issues surrounding sex discrimination and gender-based violence.

As many educational institutions across our nation deal with the significant and complicated issues surrounding protections for gender identity and expression, the University looks forward to working with all stakeholders and policy makers in crafting administrative rules and possibly additional statutory amendments that ensure a balanced approach that holistically addresses the fundamental issues. This process should also ensure that the state law and its respective administrative process will not conflict with the rights and protections set forth in federal law, rules and enforcement, as applied through the Office of Civil Rights of the U.S. Department of Education.

Thank you for the opportunity to submit testimony.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR HOUSE BILL 1489, HOUSE DRAFT 1, SENATE DRAFT 1,
RELATING TO CIVIL RIGHTS**

**Senate Committee on Judiciary
Hon. Brian T. Taniguchi, Chair
Hon. Karl Rhoads, Vice Chair**

**Tuesday, April 3, 2018, 9:15 AM
State Capitol, Conference Room 016**

Honorable Chair Taniguchi and committee members:

I am Kris Coffield, representing IMU Alliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in strong support of House Bill 1489, HD1, SD 1, relating to civil rights.

On February 22, 2017, the administration of President Donald Trump revoked Obama-era protections that allowed transgender students to use bathrooms and facilities corresponding with their gender identity in public schools. Education and LGBT advocacy groups quickly and correctly denounced the revocation as a politically motivated attack that will endanger transgender children and sow confusion over the federal government's role in enforcing civil rights. As attacks on minorities escalate across the country following Donald Trump's election to the nation's highest political office, the President and his executive team have demonstrated a willingness to violate civil liberties with reckless abandon, from banning Islamic individuals from entering the United States to threatening immigrant communities with deportation to appointing a Secretary of Education descended from an anti-LGBT dynasty that promotes conversion therapy to "cure LGBT children of same-sex attractions."

Amending HRS §368 to defend against discrimination based on gender, gender expression, or sexual orientation, then, codifies into state law what exists at the federal level under Title IX of the Education Amendments Act of 1972, redesignated in 2002 as the Patsy Mink Equal Opportunity in Education Act. While the applicability of protections articulated under HRS § 368-1.5 to educational institutions is currently the subject of a pending appeal before the Hawai'i Supreme Court in *Hawaii Technology Academy v. Elento and the Hawai'i Civil Rights Commission*, the actions of the Trump administration mandate greater state protections for LGBT individuals in education, employment, health care, housing, social services, public safety, and

corrections, among other areas, as federal protections appear on the cusp of elimination. Under Obama, the Equal Employment Opportunity Commission broadened the scope of existing employment nondiscrimination law to encompass LGBT people by interpreting Title VII's ban on workplace "sex discrimination" to include discrimination based on sexual orientation and gender identity. EEOC officials reasoned that discrimination against LGBT people is rooted in stereotypical beliefs about gender expression, biology, and romantic attraction, which directly connect to beliefs about sex. The commission's 2015 decision that antigay discrimination is sex discrimination was 3–2; the majority was composed entirely of Obama appointees.

More controversially, the U.S. Department of Education borrowed the EEOC's logic to interpret Title IX as banning sex discrimination in any educational institution or program that receives federal funds, unless the institution receives an explicit waiver for religious purposes. In 2014, under Obama's purview, the DOE announced that Title IX's sex discrimination provision bans LGBT discrimination (while also holding that excluding transgender students from the bathroom that corresponds to their gender identity constitutes illegal sex discrimination). When religious schools swiftly moved to obtain a waiver from the new rules, the DOE responded by providing a public list of the exempted institutions, which were previously permitted to exempt themselves in secrecy. We must call to mind children like Ash Whitaker, who sued his transphobic school after it banished him from the boys' bathroom and considered making him wear a bright green wristband so the staff could monitor his restroom use. In September of 2016, Whitaker won an emphatic ruling forbidding his school from discriminating against him. In the Trump Era, however, one can easily imagine progressive anti-discrimination policies being repealed.

Every Hawai'i anti-discrimination statute prohibits discrimination based on sex, gender identity and expression, and sexual orientation, except for HRS §368. According to researchers at the Williams Institute, Hawai'i maintains the highest percentage of persons who identify as transgender individuals. Hawai'i also has a long history of guarding against discrimination toward our LGBT community, beginning with the landmark *Baehr v. Miike* ruling in 1993 that initiated the legal battle for marriage equality in the United States. When it comes to education specifically, Board of Education Policy 305.10 prohibits discrimination under any DOE program and HRS Chapter 489 bans discrimination in public accommodations, including on the basis of gender expression or sexual orientation. Thus, this bill amplifies protections already established in state law, board policy, and administrative rules.

Hawai'i prides itself on being a paradise for all. To keep the arc of the islands' history bending toward justice, we ask your committee to support this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



March 29, 2018

Senate's Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, HI 96813

Hearing: Tuesday, April 3, 2018 – 9:13 a.m.

RE: **STRONG SUPPORT for House Bill 1489 HD 1 SD 1 – RELATING TO CIVIL RIGHTS**

Aloha Chairperson Taniguchi, Vice Chair Rhoads and fellow committee members,

I am writing in STRONG SUPPORT to House Bill 1489 HD 1 SD 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 1489 prohibits a state agency or program or activity receiving state financial assistance from excluding from participation, denying benefits to, or discriminating against a qualified individual by reason of disability, sex, including gender identity or expression, or sexual orientation.

The LGBT Caucus believes that any state agency or program should not be allowed to discriminate against anyone in any of the protected classes. Now with the complete uncertainty of protections the LGBTQIA community will receive at that federal level HB 1489 HD1 SD 1 is so desperately needed.

The LGBTQIA community is under attack at the federal level and this bill will ensure that the Aloha State will protect not only the LGBTQIA community but all protected classes!

Thank you, Chair and Members of the Committee, for your thoughtful consideration of HB 1489 HD 1 SD 1.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
LGBT Caucus for the DPH

April 3, 2018

To: Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary

From: Mandy Finlay, Director of Public Policy
Hawaii Children's Action Network

Re: **H.B. 1489, HD1, SD1– Relating to Civil Rights**
Hawaii State Capitol, Room 16, April 3, 2018, 9:15 AM

On behalf of Hawaii Children's Action Network (HCAN), we are writing in SUPPORT of H.B. 1489, HD 1, SD 1– Relating to Civil Rights.

H.B. 1489 would enact a state version of Title IX by prohibiting discrimination on the basis of sex — including sexual orientation, and gender identity and expression — in educational programs and activities that receive state financial assistance. It is more important than ever that Hawaii take steps to protect students against gender-based discrimination. In 2017, the Trump administration reversed Obama-era administrative guidance on the rights of LGBT students. Specifically, the U.S. Department of Education reversed the prior clarification that Title IX's prohibition against discrimination based on "sex" includes discrimination on the basis of sexual orientation and gender identity and expression, and that failing to allow a transgender student to use school facilities and participate in school activities in accordance with their gender identity violates Title IX. The U.S. Department of Education also rescinded its guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault.

These actions taken by the Trump administration are antithetical to Hawaii's core values and have put the rights of our students in jeopardy. Students cannot thrive and succeed if they feel unsafe and unsupported at school. H.B. 1489 would help guarantee that regardless of federal action, Hawaii's students remain protected.

For these reasons, HCAN respectfully requests that the committee pass this bill.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education.

To: Senate Committee on Education
Date/Time: April 3, 2018, 9:30AM
Hawaii State Capitol Conference Room 016

TESTIMONY IN SUPPORT OF
HB 1489 HD1 SD1 – RELATING TO DISCRIMINATION IN EDUCATION

Dear Chair Taniguchi, Vice-Chair Rhoads, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of HB 1489 HD1 SD1, which would enact a state version of Title IX by prohibiting discrimination on the basis of sex in educational programs and activities that receive state financial assistance.

House bill 1489 HD1 SD1 is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws. The essence of Title IX is to for all schools—from Kindergarten through college—to provide students with a learning environment that is free from gender-based discrimination in all forms, including sexual violence. Schools must address all safety concerns—environment, bullying, drugs/alcohol, security—and sexual violence is no different.

The recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, while 1 in 4 felt that an off-campus, university-sponsored event incident was likely.¹ In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.²

I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Kathleen Algire
Director, Public Policy and Advocacy
YWCA O'ahu

¹ Loui, P. "University of Hawai'i Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary," Sept. 11, 2017.

² Id.

HB-1489-SD-1

Submitted on: 3/29/2018 9:39:04 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	Yes

Comments:

I strongly support this bill.

HB-1489-SD-1

Submitted on: 3/31/2018 9:23:51 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Individual	Support	Yes

Comments:

Dear Chair Taniguchi, Vice-Chair Rhoads, and Members of the Senate Committee on Judiciary,

I would like to thank you for the opportunity to testify in SUPPORT of H.B. 1489, which would enact a state version of Title IX by prohibiting discrimination on the basis of sex in schools and workplace that receive state financial assistance.

H.B. 1489 is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws. The current federal administration has reversed the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, and gender identity and expression. The administration also rescinded protections for transgendered students that had been put into effect by President Obama.

In addition, USDOE rescinded its guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault. I would request that H.B. 1489 be amended to include protections from sex discrimination, including sexual harassment and sexual assault.

Based on a nationally representative survey of 1,965 students in grades 7–12 conducted by American Association of University Women (AAUW), sexual harassment is part of everyday life in middle and high schools: (Source: Hill, C., "Crossing the Line: Sexual Harassment at School," Nov. 2011)

- Nearly half (48 percent) of the students surveyed experienced some form of sexual harassment in the 2010–11 school year, and the majority of those students (87 percent) said it had a negative effect on them;
- Girls were more likely than boys to be sexually harassed, by a significant margin (56 percent versus 40 percent);
- Being called "gay" or "lesbian" in a negative way is sexual harassment that girls and boys reported in equal numbers (18 percent of students).

Despite overwhelming evidence of sexual harassment in schools, the Civil Rights Data Collection (CRDC) revealed that more than three-fourths (79) of all public school grades 7-12 reported zero incidents of sexual harassment. The math does not add up. (Source: Yuen, P., "Three-Fourths of Schools Report Zero Incidents of Sexual Harassment in Grades 7-12," Oct. 24, 2017)

According to the recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across 10 UH campuses: (Source: Loui, P. "University of Hawai'i Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary," Sept. 11, 2017)

- - Native Hawaiian students are particularly vulnerable to all forms of gender violence on campus;
 - 1 in 10 students reported experiencing sexual harassment at any time while enrolled at UH;
 - 14.7% percent of students at UH perceive sexual assault and harassment to be extremely problematic at UH;
 - 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, with 1 in 4 feel that an off-campus, university-sponsored event incident was likely;
 - 46% of students perceived that campus officials would treat students who experience sexually harassment or gender violence respectfully, and 49% believed their safety would not be protected;
 - 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH;
 - Lesbian/gay/bisexual students had significantly higher rates of all forms of gender violence than those in other sexual orientation groups;
 - Transgender, genderqueer and non-conforming students were, by a large margin, the most likely to experience nonconsensual sexual contact.

Weakening of protection from sex discrimination including sexual harassment and sexual assault will only worsen a problem that is already bad.

Please pass this important measure and protect our keiki.



April 3, 2018

To: Senator Brian Taniguchi, Chair
Senator Karl Rhoads, Vice Chair and
Members of the Committee on Judiciary

From: Jeanne Y. Ohta, Co-Chair

RE: HB 1489 HD1 SD1 Relating to Civil Rights
Hearing: Tuesday, April 3, 2018, 9:15 a.m., Room 016

POSITION: Support

The Hawai'i State Democratic Women's Caucus writes in support of HB 1489 HD1 SD1 Relating to Civil Rights. Which would prohibit State agencies or programs from excluding from participation, denying benefits to, or discriminating against a qualified individual by reason of disability, sex, including gender identity or expression, or sexual orientation.

The protections of Title IX need to be extended to Hawaii law. The current federal administration has already withdrawn support opposing discrimination based on gender identify. It is because of the possible changes in federal regulations and procedures that we support this measure and believe that is critically necessary to promote inclusion of everyone in Hawai'i.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls.

We ask that the committee pass this measure and we thank the committee for the opportunity to provide testimony.

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Tues., Apr. 3, 2018, 9:15 pm.
Place: Hawaii State Capitol, Rm. 016
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 1489, HD1, SD1, relating to Civil Rights

Dear Chair Tanguchi and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of H.B. 1489, HD1, SD1, which would prohibit discrimination on the basis of sex, gender identity and expression and sexual orientation in state-funded agencies, programs and activities.

H.B.1489 is urgently needed in light of the current federal administration’s overt and concerted effort to dismantle federal anti-discrimination laws, in particular Title IX, authored by Hawaii’s own Patsy T. Mink. The current administration has left LGBT youth without Title IX protections by reversing the federal government's previous interpretation of the prohibition against discrimination based on “sex” that included discrimination based on sexual orientation, and gender identity and expression. The administration has specifically targeted transgendered students by rescinding protections for them. In addition, USDOE rescinded its guidance on the investigation of campus sex assaults to make it even more difficult to recover from sex-based harm.

This war on women, girls, and LGBT individuals calls upon all of us to take action. Please pass H.B. 1489 and ensure that, regardless of what happens on the federal level, Hawaii continues to promote fairness and equality for our students.

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

Sincerely,

Laurie Field
Hawaii Legislative Director



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
John Bickel, President	Guy Archer	Jan Lubin	Cameron Sato	P.O. Box 23404
Alan Burdick, Vice President	Juliet Begley	Jenny Nomura	George Simson	Honolulu
Marsha Schweitzer, Treasurer	Gloria Borland	Stephen O'Harrow		Hawai'i 96823
Karin Gill, Secretary	Chuck Huxel	Doug Pyle		

March 31, 2018

TO: Honorable Chair Taniguchi and Members of Judiciary Committee

RE: HB1489 HD1 SD1 Relating to Civil Rights

Support for hearing on April 3

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 1489 HD1 SD1 as it would have state support for Title IX and other anti-discrimination rights. It is especially important now as the current federal administration is overtly attempting to dismantle federal anti-discrimination laws. At the state level we note particular complaints against the DOE for implementation of Title IX coordinators. We do not take a position on the role of the Civil Rights Commission in enforcement.

Thank you for your consideration.

Sincerely,

John Bickel
President



April 1, 2018

Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary

Re: H.B. 1489, H.D.1 S.D.1 Relating to Civil Rights

Hearing: Tuesday March 20, 2018, 2:45 pm, Room 229

Dear Chair Taniguchi, Vice Chair Rhoads, and Members of the Committee on Judiciary:

Hawaii Women Lawyers submits testimony in **support** of H.B. 1489, H.D.1 S.D.1 **with reservations**. This measure prohibits a state agency or program or activity receiving state financial assistance from excluding from participation, denying benefits to, or discriminating against a qualified individual by reason of disability, sex, including gender identity or expression, or sexual orientation.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

Despite much work and progress towards equality, discrimination still exists towards women, as well as others. Today's federal administration has shown its broad intent to dismantle or decline to enforce anti-discrimination laws and programs, to include Title IX. It is imperative that Hawaii take care of its vulnerable, and at-risk citizens.

Hawaii Women Lawyers supports this measure because it continues to show our commitment to gender equity and continue to enforce anti-discrimination in Hawaii. It also embraces the legacy of Congresswoman Patsy Mink. However, we request that the Senate tailor this carryover bill to a narrow state analog of Title IX in order to fill the gaps where the federal law is failing today's students. We would also like to see organizational standing included in the final measure because this law will most directly affect our Department of Education schools, and it is critical that if students file suit that their name is not released in association with the legal action. This is requested to provide students protection from harassment, bullying and retaliation should they file suit.

For these reason, we respectfully request that the Committee pass H.B. 1489, H.D.1. S.D.1 to include the modifications listed above.

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

P.O. Box 2072 • Honolulu, Hawaii 96805
Email: hawaiiwomenlawyers@gmail.com

Testimony in SUPPORT of HB1489
Senate Committee on Judiciary
Tuesday April 3, 2018 | Conference Rm 016, 9:15am
Tiffany Peek | tkhampha@hawaii.edu | Mililani, HI, 96789

Dear Chair Taniguchi & Vice-Chair Rhoads,

My name is Tiffany Peek, and I am currently a senior at the University of Hawai'i at Manoa and Vice President of Planned Parenthood Generation Action, a student led organization which aims to advocate for progressive policies at the UH Manoa campus. I am writing to you **in support of HB1489** and respectfully urge you to pass HB1489 in order to protect Hawai'i students from discrimination, sexual harassment, and assault, especially in light of the Trump administration's plans to roll back these protections at the federal level.

In January 2018, the University of Hawai'i Climate Survey Report was published and made available to the public. It polled 44,671 adult students across ten UH campuses, revealing the necessity for a state-level solution. It was found that 1 in 8 students felt it was likely they would experience sexual assault or sexual harassment while on campus while 1 in 4 felt that an off-campus, university-sponsored event incident was likely. 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH. Furthermore, a significant number of students were either only a little knowledgeable or not at all knowledgeable of the reporting procedure as well as where to find resources in the event of sexual assault and harassment. This lack of knowledge in turn may have direct effects on the rate at which students are reporting incidents.

As a resident and student of Hawai'i, I have confidence that the state will work to hold its educators to the highest standards and not seek to undermine students' nor survivors' experiences, but rather promote a culture of respect, dignity, and fairness. HB1489 ensures safer learning environments for all students, a policy especially critical in a time when advocates are stepping forward in swell numbers to say no to rape culture and violence, as well as in a time when we are beginning to recognize the growing need for students to pursue careers non-traditional to their gender.

The Trump administration's rollbacks on the enforcement of federal regulations prohibiting sex discrimination extend beyond education. To ensure that no state agency be allowed to discriminate on the basis of sex, I request that you extend this bill to cover all state-funded programs and services.

Thank you for the opportunity to submit testimony for HB1489. Again, I support HB1489 and respectfully urge you to PASS this vital bill.

Sincerely,
Tiffany Peek

HB-1489-SD-1

Submitted on: 3/30/2018 11:54:24 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne	Individual	Support	No

Comments:

I would like to thank the Committee for the opportunity to testify in support of HB1489 HD1 SD1, which would enact a state version of Title IX by prohibiting discrimination on the basis of sex, including sexual orientation and gender identity. This bill is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws.

The recent University of Hawai`i Climate Survey Report reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus. The survey also confirms that LGBTQ students are the most vulnerable and experience the highest rates of gender violence and sexual harassment on campus.

Suggested amendment: I would also like to request that organizational standing is included in the final measure because this law will largely affect our public elementary and high schools, and it will be crucial that students not be forced to bring a case in their own name. To protect them from bullying and retaliation, we need organizations to be able to sue on behalf of students.

Mahalo nui for your favorable consideration of this matter,

Wayne Tanaka

HB-1489-SD-1

Submitted on: 3/30/2018 10:32:15 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

HB-1489-SD-1

Submitted on: 3/30/2018 12:04:15 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Terez Amato Lindsey	Individual	Support	No

Comments:

We must take these extra precautions to protect our children in this age of Trump politics. Please pass this measure.

Thank you,

Terez Amato Lindsey, Kihei, Maui

HB-1489-SD-1

Submitted on: 3/30/2018 2:31:13 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raymond John Ramiro	Individual	Support	No

Comments:

Dear Chair Taniguchi and Members of the Comittee,

I am Raymond John Ramiro, an HPU student and a member of Planned Parenthood's Generation Action Team. Please vote to pass HB1489. I firmly believe that all students should be treated will respect and dignity and should not be discriminated by their unique qualities. This goes for spaces of education and any workplaces here in the state and should reflect through the nation.

Thank you for your time and consideration.

- Raymond John Ramiro

HB-1489-SD-1

Submitted on: 3/30/2018 2:29:36 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Genie Jane	Individual	Support	No

Comments:

Dear Chair Taniguchi and members of the committee,

Please vote to pass HB 1489. My name is Genie Reutirez, I am an HPU student and a Planned Parenthood member of the Generation Action Club at HPU. The bill HB 1489 is very important to me because as a student I expect to be treated fairly without having to be discriminated based on my gender as well as to provide protections for those who are victims of sexual harassment.

Thank you for this opportunity to support this bill. I urge you to pass and to protect students like me.

HB-1489-SD-1

Submitted on: 3/30/2018 2:32:15 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Hannah Tooke	Individual	Support	No

Comments:

Dear Chair Taniguchi and Members of the Committee,

Please vote to pass HB1489. My name is Hannah and I'm an HPU student and Planned Parenthood Generation Action student group member at HPU. As a student, I expect to be treated fairly and not to be discriminated against on a basis of sex. As the Federal government continues to chip away at the Title IX law, it becomes more and more important to ensure these protections at the state level. Thank you for this opportunity and I urge you to pass HB1489.

HB-1489-SD-1

Submitted on: 3/30/2018 4:00:27 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erik Meade	Individual	Support	No

Comments:

I've worked university systems for many years. I think this bill is warranted. Current events have illustrated the need to do better. Please support it. Thank-you.

To: House Committee on Judiciary Chair Taniguchi and Vice Chair Rhoads and members
Subject: Testimony in **SUPPORT** of H.B. 1489 – Relating to Civil Rights
Date: April 3, 2018, at 9:15 a.m. in Rm 016

Thank you for the opportunity to testify in **SUPPORT** of H.B. 1489, to enact a state version of Title IX by prohibiting discrimination on the basis of sex in educational programs and activities.

It was 45 years ago, that the Federal Title IX was enacted. The law was later to be named the Patsy Mink Equal Opportunity in Education Act after its late co-author and sponsor. It was a relatively simple concept:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Subsequently, Federal administrative rules, best practices and case law expanded that concept to protections for students, especially women and girls, because educational opportunity cannot be equal if a campus is a hostile environment where students are subject to harassment or assault. Today, protections are being rolled back by a Federal administration trying to erase all traces of a previous administration. To protect Hawaii’s students, I urge the passage of a State Title IX law.

Hawaii’s students deserve to be safe in school.

I support this bill and urge you to pass this important legislation.

Sincerely,

Amy Monk
Commissioner, Hawaii State Commission on the Status of Women

HB-1489-SD-1

Submitted on: 3/30/2018 4:45:08 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Support	No

Comments:

Aloha Chair Taniguchi and Committee Members,

I strongly support HB1489.

Since it became law in 1972, Title IX (written by Maui's own Patsy Mink) has made a nationwide impact in the student academic experience. Not only did it pave the way for women's athletics, but it also required academic institutions to be free from gender-based violence, harassment, and bullying – providing a safe educational experience for ALL students.

By passing this state Title IX bill, Hawai'i can:

ensure that state and state-funded educational programs do not discriminate against LGBTQ students;

allow the reinstatement of the protections to survivors of sexual harassment or sexual assault rolled back by the U.S. Department of Education; and

extend Title IX protections to students participating in all state and state-funded educational programs without regard to whether such program receives federal funding or not.

Mahalo Nui loa for standing up for all our students!,

Ms. Barbara Barry

Ha'iku, HI

HB-1489-SD-1

Submitted on: 3/30/2018 6:08:54 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Graham	Individual	Support	No

Comments:

Dear Chair Taniguchi, Vice Chair Rhoads, and Members of the Committee,

Thank you for the opportunity to submit testimony in strong support of H.B. 1489, H.D. 1 S.D. 1, scheduled for hearing by the Senate Committee on Judiciary on Tuesday, April 3. This bill seeks to provide for a state corollary to the Title IX and I fully support extending these protections to all Hawai'i students participating in state and state-funded educational programs and activities. I am a university lecturer at UH Manoa and I need you to pass this bill to protect my LGBTQ students.

Due to the Trump Administration reversing prohibitions against discrimination based on sexual orientation, gender expression, and gender identity. The U.S. Department of Education has withdrawn guidance about enforcing Title IX – The Patsy T. Mink Equal Opportunity in Education Act. With these federal attacks, we need this bill passed to restore protections against sexual assault and discrimination for our students.

Since it became law in 1972, Title IX (written by Maui's own Patsy Mink) has made a nationwide impact in the student academic experience. Not only did it pave the way for women's athletics, but it also required academic institutions to be free from gender-based violence, harassment, and bullying – providing a safe educational experience for ALL students.

By passing this state Title IX bill, Hawai'i can:

- ensure that state and state-funded educational programs do not discriminate against LGBTQ students;
- allow the reinstatement of the protections to survivors of sexual harassment or sexual assault rolled back by the U.S. Department of Education; and
- extend Title IX protections to students participating in all state and state-funded educational programs without regard to whether such program receives federal funding or not.

A recent editorial in the *New York Times* by Jennifer Finney Boylan suggests that strong legislation and leadership from government influences public opinion in favor of human rights, so by passing this legislation you can help keep the momentum going on social progress. Here is the link if you would like to read this article:

<https://www.nytimes.com/2018/01/29/opinion/america-tolerant-lgbtq-rights.html?rref=collection%2Fcolumn%2FJennifer%2BFinney%2BBoylan&action=click&contentCollection=Opinion&module=Collection%2CAEion=Marginalia&src=me&version=column&pgtype=article.%20Accessed%20on%203%20Mar.%202018>

No students should have to feel unsafe or unwelcome in their own school because of their sex, or because they do not conform to stereotypical notions about how boys or girls should behave. Title IX was designed to protect all students, including boys and girls; transgender students and gender-nonconforming students, and pregnant and parenting students, from discrimination, harassment and harm.

Thank you for reading this. I hope you can send this bill to the governor.

Best, Janet Graham

HB-1489-SD-1

Submitted on: 3/31/2018 11:08:42 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Support

HB-1489-SD-1

Submitted on: 3/31/2018 11:13:29 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley de Coligny	Individual	Support	No

Comments:

HB-1489-SD-1

Submitted on: 4/1/2018 3:26:02 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Kay	Individual	Support	No

Comments:

This isn't already a law? I strongly support HB1489 HD1 SD1. Let's get going on this!

HB-1489-SD-1

Submitted on: 4/1/2018 6:24:16 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dina Shek	Individual	Support	No

Comments:

HB-1489-SD-1

Submitted on: 4/1/2018 9:01:35 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments:

HB-1489-SD-1

Submitted on: 4/2/2018 8:13:42 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Finley-Jacob	Individual	Support	No

Comments:

Dear Chair Taniguchi and Members of this Committee,

My name is Lauren Finley-Jacob, and I am writing to express my support for HB1489, which would prohibit discrimination on the basis of sex, *including* gender identity and sexual orientation, in any state educational program or educational program that receives state funding.

As a woman who has been through the University of Hawai'i at Manoa school system, I am in full support of a state corollary to Title IX. Girls and boys should have the same opportunities and protections growing up if they're enrolled in state funded programs. Hawaii, compared to the nation, does great in terms of gender equality in sports programs, but even Campbell High School has boys locker rooms while the girls have to carry their gear around all day and either change in the restrooms, empty classrooms, or behind the bleachers. These are the inequalities that still need fixing in our current system.

HB1489 would define sex to be more broad and inclusive than at the federal level, giving protections to those that identify as the opposite sex than what they were assigned at birth. Because transgender rights are being targeted so heavily by the Trump Administration, we need to establish this bill in Hawaii to ensure that our transgendered citizens, especially transgendered youth, have equal protections under state law. Because they are disproportionately more likely to be victims of sexual assault or harassment, the insurance that sex is to include gender identity is necessary to this bill.

I urge you to support HB1489. Thank you for the consideration of my testimony.

Mahalo,

Lauren Finley-Jacob
Planned Parenthood Votes Northwest and Hawaii
Field Organizer

HB-1489-SD-1

Submitted on: 4/2/2018 8:56:10 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Jenkins	Individual	Support	No

Comments:

Please support this bill. Equal rights for Hawaii's children and students are under attack. The Trump Administration has reversed prohibitions against discrimination based on sexual orientation, gender expression, and gender identity. The U.S. Department of Education has withdrawn guidance about enforcing Title IX – The Patsy T. Mink Equal Opportunity in Education Act. With these federal attacks, we need the Hawai'i Legislature to act now to restore protections against sexual assault and discrimination for our students. Please help our children from discrimination!

HB-1489-SD-1

Submitted on: 4/2/2018 9:06:02 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Fritts	Individual	Support	No

Comments:

My name is William Fritts, I am 17 years old and have been bullied throughout my life. As a kid we go into the world taught to treat others with respect, to treat others how you want to be treated. Discrimination based on religion, age, sex, gender, race is not acceptable. I am in strong support of HB1489. We cannot do that when we have legal discrimination, we cannot protect ourselves or others. I have been to ceeds of peace, GIN, and different work shops on diversity, we need to progress as a society to a more respectful culture. I am not speaking on behalf of this Together Alone, Together Alone is an article that highlights the outcomes of gay men as adults. With higher sex abuse and the epidemic of feeling lonely a theory is micro aggresisons and discrimination. As I said before, I am in strong support of HB1489 and I want to see a brighter futer. Thank you.

March 02, 2018

Testimony in Support, HB 1489, Relating to Civil Rights

To: Committee on Judiciary: Senator Brian T. Taniguchi, Chair & Senator Karl Roads, Vice Chair

From: Taylor Schultz

Re: Testimony in Strong Support, HB 1489, Relating to Civil Rights

Aloha, my name is Taylor Schultz, and I am writing in strong support of HB 1489, which would prohibit any state agency, program, or activity receiving state financial assistance from denying benefits to or discriminating against a qualified individual by reason of disability, sex, gender identity, gender expression or sexual orientation.

This bill mimics aspects of title IX which has been an integral aspect of my own educational journey. Despite having strong federal laws and regulations in place, discrimination based on gender and gender identity continue to persist throughout the nation. With the current climate of the federal administration, it is likely that the laws that enforce anti-discrimination are at risk for being dismantled. I feel that it is our kuleana here in Hawaii to ensure that gender and sexual based discrimination will not be tolerated. It is essential that policies like these are solidified into our progressive state laws so that every person, regardless of differences, are treated with respect and have unobstructed access to academic and extracurricular activities.

HB 1489 would codify some of these strong federal anti-discrimination laws into state law. HB 1489 is necessary to ensure that the protections against discrimination found in Title IX and its administrative agency interpretations continue.

I strongly support HB 1489 and respectfully urge this Committee to pass this important safeguarding measure.

HB-1489-SD-1

Submitted on: 4/2/2018 9:25:42 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo and I am a UH MÄ• noa undergraduate student writing to thank you for scheduling Title IX/HB1489 for public hearing on Tuesday. I know from my own experience, as well as the the recent news of OCR's findings, the UH Climate Survey, and DOE's own admission of failed compliance on Title IX with regard to athletics, that the time is now to pass this measure. DOE has had over 60 years to come into compliance with this important civil rights legislation. We deserve more than assurances of compliance-- we deserve effective enforcement. Thank you again for moving this measure. I look forward to submitting testimony in support of HB1489 for your upcoming hearing and supporting your leadership on this issue.

Thank you,

Nanea Lo

HB-1489-SD-1

Submitted on: 3/31/2018 5:35:51 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
	Testifying for Domestic Violence Action Center	Support	No

Comments:

TESTIMONY IN SUPPORT OF
H.B. 1489, HD 1, SD 1 – RELATING TO CIVIL RIGHTS

Senate Committee on Judiciary
Tuesday, April 3, 2018
Conference Room 016

Dear Chair Taniguchi, Vice Chair Rhoads and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 1489, HD 1, SD 1 (with amendments), which would enact a state version of Title IX by prohibiting discrimination on the basis of sex in educational programs and activities that receive state financial assistance.

HB 1489, HD 1, SD 1 is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws. The Trump administration has reversed the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, and gender identity and expression. The administration also rescinded protections for transgendered students that had been put into effect by President Obama. In addition, USDOE rescinded its guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault. This war on women, girls, and LGBT individuals calls upon all of us to take action.

The recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, while 1 in 4 felt that an off-campus, university-sponsored event incident was likely. In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.

The University survey also confirms that LGBTQ students are the most vulnerable, and experience the highest rates of gender violence and sexual harassment, as compared to their male/female counterparts and students identifying as heterosexual. For example, while there was a troubling, high prevalence of intimate partner violence across the University system with 19.1% of student respondents reporting intimate partner violence (~ 1 in 10 students), transgender and gender non-conforming (TGQN) students had the highest rate of dating and domestic violence with 40.3% of undergrad TGQN students and 29.6% of TGQN community college students reporting IPV. The alarming prevalence of gender violence against our LGBTQ students exemplifies the need to expand statutory protection and legal recourse against discrimination of sex to include, gender identity/expression and sexual orientation.

Suggested amendment: Additionally, I strongly urge the committee to include a provision allowing for **organizational standing** in the final measure. This law will largely affect our DOE schools and University students and it will be crucial that minors and other vulnerable parties are not required to bring a case in their own name. Organizations must be allowed to sue on behalf of students to protect them from bullying and retaliation, and further the bill's purpose to prevent discrimination in our schools.

Accordingly, I SUPPORT HB 1489, HD1, SD 1. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Nadezna Ortega, J.D., M.A.
Core Member
AF3IRM - Hawaii

HB-1489-SD-1

Submitted on: 4/1/2018 7:35:22 AM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
amy agbayani	Testifying for Filipina Advocacy Network FAN	Support	No

Comments:

Please support Title IX, the Patsy T. Mink bill which will provide students to be adequately protected against sexual harrassment.

Amy Agbayani,

Filipina Advocacy Network

HB-1489-SD-1

Submitted on: 3/31/2018 2:18:24 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Brian T. Taniguchi, Chair; the Honorable Karl Rhoads, Vice-Chair, and Members of the Senate Committee on Judiciary:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **HB1489 HD1 SD1**, relating to Education; Civil Rights; Discrimination; Sex; Sexual Orientation; Gender Identity; and Gender Expression.

The OCC on Legislative Priorities is in favor of **HB1489 HD1 SD1** and support its passage.

HB1489 HD1 SD1, is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it prohibits discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance, effective on 7/1/2019.

The DPH Platform states that: "We need to ensure that our students are safe in our schools, free from bullying and discrimination, to include but not limited to, disability, gender bias, weight, ethnicity, sexual orientation, gender identity, gender expression, and/or religion. We support policies in all our schools that protect, honor and address the needs of transgender and gender nonconforming students. (Platform of the DPH, P. 6, Lines 321-326 (2016)).

The inherent dignity and equal and inalienable rights of all human beings are the foundations of freedom, justice, and peace. We support affirmative action, the full implementation of the Civil Rights Acts of 1964 and 1990 and the Americans with Disabilities Act of 1990. (Platform of the DPH, P. 3, Lines 159-161 (2016)).

We support full equality and nondiscrimination with respect to duties, benefits and responsibilities regardless of actual or perceived sexual orientation, gender identity and gender expression. (Platform of the DPH, P. 4, Lines 167-168 (2016)).

We support initiatives that enhance access and equity in education, employment, and business opportunities intended to lift families and individuals out of poverty and remove existing barriers to equal opportunity in our communities. (Platform of the DPH, P. 4, Lines 189-191 (2016)).

We strongly oppose discrimination in the provision of services either by the Government or by a business to prospective customers and we find the practice abhorrent, whatever the source of the prejudice, which motivates discrimination. We strongly support the efforts of our candidates and elected officials to also vehemently oppose any legislation that would permit and/or endorse discrimination. (Platform of the DPH, P. 5, Lines 250-253 (2016)).

Given that **HB1489 HD1 SD1** prohibits discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance, effective on 7/1/2019, it is the position of the OCC on Legislative Priorities to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC on Legislative Priorities

Email: legislativepriorities@gmail.com, Text/Tel.: (808) 258-8889

From: buller.laura@gmail.com@mg.gospringboard.io on behalf of [Laura Buller](#)
To: [JDC Testimony](#)
Subject: Equal rights for Hawaii's children are under attack.
Date: Saturday, March 31, 2018 8:00:56 PM

Dear Chair Taniguchi, Vice Chair Rhoads, and Members of the Committee,

I am writing in strong support of H.B. 1489, H.D. 1 S.D. 1, scheduled for hearing by the Senate Committee on Judiciary on Tuesday, April 3. This bill seeks to provide for a state corollary to the Title IX and I fully support extending these protections to all Hawai'i students participating in state and state-funded educational programs and activities.

No students should have to feel unsafe or unwelcome in their own school because of their sex, or because they do not conform to stereotypical notions about how boys or girls should behave. Title IX was designed to protect all students, including boys and girls; transgender students and gender-nonconforming students, and pregnant and parenting students, from discrimination, harassment and harm.

It is time we live up to the legacy of our own Patsy Mink, and 45 years later, finally adopt our own Title IX, so that all Hawai'i students are protected from discrimination without regard to what federal policy may be in the future. I urge your committee to support H.B. 1489 H.D. 1 S.D. 1. Thank you for the opportunity to testify.

Mahalo nui loa,

Laura Buller
P.O.Box 6
Kualapuu HI, 96757-0006

HB-1489-SD-1

Submitted on: 4/2/2018 12:51:54 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rochelle Sugawa	Individual	Support	No

Comments:

TESTIMONY IN SUPPORT OF
H.B. 1489, HD 1, SD 1 – RELATING TO CIVIL RIGHTS
Senate Committee on Judiciary
Tuesday, April 3, 2018
Conference Room 016

Dear Chair Taniguchi, Vice Chair Rhoads and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in **SUPPORT** of H.B. 1489, HD 1, SD 1 (with amendments), which would enact a state version of Title IX by prohibiting discrimination on the basis of sex in educational programs and activities that receive state financial assistance.

HB 1489, HD 1, SD 1 is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws. The Trump administration has reversed the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, and gender identity and expression. The administration also rescinded protections for transgendered students that had been put into effect by President Obama. In addition, USDOE rescinded its guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault. This war on women, girls, and LGBT individuals calls upon all of us to take action.

The recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, while 1 in 4 felt that an off-campus, university-sponsored event incident was likely. In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.

The University survey also confirms that LGBTQ students are the most vulnerable, and experience the highest rates of gender violence and sexual harassment, as compared

to their male/female counterparts and students identifying as heterosexual. For example, while there was a troubling, high prevalence of intimate partner violence across the University system with 19.1% of student respondents reporting intimate partner violence (~1 in 10 students), transgender and gender non-conforming (TGQN) students had the highest rate of dating and domestic violence with 40.3% of undergrad TGQN students and 29.6% of TGQN community college students reporting IPV. The alarming prevalence of gender violence against our LGBTQ students exemplifies the need to expand statutory protection and legal recourse against discrimination of sex to include, gender identity/expression and sexual orientation.

Suggested amendment: Additionally, I strongly urge the committee to include **organizational standing** in the final measure. This law will largely affect our DOE schools and University students and it will be crucial that minors and other vulnerable parties are not required to bring a case in their own name. Organizations must be allowed to sue on behalf of students to protect them from bullying and retaliation, and further the bill's purpose to prevent discrimination in our schools.

Accordingly, I **SUPPORT** HB 1489, HD1, SD 1. I respectfully urge your Committee to **PASS** this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Rochelle Sugawa

LATE

HB-1489-SD-1

Submitted on: 4/2/2018 2:13:09 PM
Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tamera Heine	Individual	Support	No

Comments:

I **support** this measure because all students deserve a safe learning environment.



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

LATE

Date: 04/03/2018
Time: 09:15 AM
Location: 016
Committee: Senate Judiciary

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 1489, HD1, SD1 RELATING TO CIVIL RIGHTS.

Purpose of Bill: Prohibits discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance. Takes effect on 7/1/2019. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) has strong concerns regarding HB 1489 HD1 SD1 and respectfully offers comments.

While we join this Legislature in acknowledging that civil rights protections for citizens of our country judiciously implemented by previous federal administrations are being slowly eroded, the Department must respectfully offer the following comments and strong concerns regarding HB 1489 HD1 SD1.

- *"It is the intent of the legislature that placement of this new protection in chapter 368, Hawaii Revised Statutes, will provide for enforcement procedures and remedies under that chapter, as well as rulemaking, by the Hawaii civil rights commission."* (HB 1489 HD1 SD1, pg. 3, lines 18-20 and page 4, lines 1-2)
- If this measure passes in its current form, the Department will be hindered in its efforts to ensure that the civil protections offered to its students and employees as part of Hawaii's public schools will be prioritized through an education lens.
- Primary and secondary education is focused on youth, while post-secondary deals with adults. Translating civil rights from a K-12 lens to a K-20 lens complicates and does not enhance the process for any of the agencies involved (Hawaii State Department of Education, University of Hawaii System, Hawaii Civil Rights Commission).
- **Funding Authority** - Through this measure, the Legislature is releasing its funding authority to the Hawaii Civil Rights Commission as it pertains to legal remedies. Currently, any Department settlements, outside of funds appropriated specifically for that purpose, must be approved by the

Legislature.

- Effective Date - The proposed effective date of this Act provides time for the Commission to commence rulemaking. However, this measure does not address any changes the Department will or may need to consider. Further, it does not allow the Department to effectuate its plan to increase its statewide services via its new Equity Specialists across its fifteen (15) complex areas.

While keeping a vigilant watch, the Department has taken proactive measures to uphold Title IX federal protections against sex discrimination in education, ensure the civil rights of students and adults are upheld and protected, and, should allegations arise, expeditiously investigate any cases filed by citizens. These measures include:

- Hired a full-time Title IX Specialist
- Established fifteen (15) Complex Area Equity Specialist Positions
 - An Equity Specialist position has been specifically established for and assigned to each complex area statewide to handle civil rights issues pertaining to Title IX, Section 504, Title II of the ADA, and Title VI. Eleven of the fifteen (15) positions have already been filled and the remaining four are in active recruitment.
- Disseminated Hawaii Department of Education's (HIDOE) Non-Discrimination and Anti-Harassment Policy
 - The HIDOE's approved Notice of Non-Discrimination and Anti-Harassment Statement (Notice) has been included as part of its Opening of the School Year Packet for employees since school year 2016-2017.
- Updated HIDOE's Policies and Complaint Procedure
 - Since 2015, the HIDOE's Civil Rights Compliance Office (CRCO) has worked to revise Hawaii Administrative Rules (HAR) Chapter 8-41; and, in 2016, CRCO began drafting proposed amendments to Board of Education (BOE) Policy 305-10, entitled Anti-Harassment, Anti-Bullying, and Anti-Discrimination against Student(s) by Employees and the affiliated Standards of Practice in December 2016. The draft revisions to the complaint and grievance procedure address issues raised in the compliance review, including student-to-student conduct.
- Developing employee training and a timeline, and creating a timeline for the HIDOE's rollout of training to all employees.
- Creating age-appropriate videos for students to ensure that students know who, how, when, and where to report allegations of alleged discrimination on protected basis.
 - Scheduled for release in Spring 2019
- Ongoing participation in the Hawaii Youth Risk Behavior Survey (YRBS)
 - The YRBS monitors six categories of priority health risk behaviors among youth and young adults. Visit www.cdc.gov/HealthyYouth/yrbs/index.htm for more information.

Lastly, the Department has affirmed its commitment and resources to ensuring that the terms contained in the Resolution Agreement dated December 20, 2017 between the Department and United States Department of Education's Office for Civil Rights are met.

The Department reaffirms its commitment to addressing civil rights issues that impact its students,

employees and others who come into contact with the Department.

In light of the Department's concerns and the efforts set forth above, the Department respectfully submits that this bill is not necessary and could result in a variety of adverse impacts to the State.

Thank you for this opportunity to provide testimony on this measure.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

LATE

Hawaii State Legislature H.B.1489 pertaining to discrimination in education

Statement by Amnesty International –Hawai‘i Chapter #449

The Hawaii state legislature is considering bill (H.B.1489) that aim to ensure the protection from discrimination for students “on the basis of sex, including gender identity or expression, or sexual orientation.” These bills would protect students’ rights to participate in and receive the benefits of “any state educational program or activity” or “any educational program or activity that receives state financial assistance.” The bills stipulate that nothing shall prevent students from bringing “civil action for sexual harassment or sexual assault and infliction of emotional distress or invasion of privacy related thereto.” The purposes of these state bills are to make up for the lack of protection for the categories of gender identity, gender expression and sexual orientation, which were removed by the Department of Education in regards to sex discrimination under Title IX.

Amnesty International USA’s holds that all people, regardless of their sexual orientation or gender identity, should be able to enjoy the full range of human rights, without exception. Systematic discrimination reinforces the disadvantages of lesbian, gay, bisexual, transgender, and intersex (LGBTI) people and can be used as justification for violence, including sexual violence, against them, whether on the street, at home, in prison, or in schools.

Evidence shows that LGBTI people experience higher rates of sexual violence than do heterosexual and cisgender people, and Amnesty International USA shares the concern of these bills that the current interpretation of the definition of “sex” under Title IX of the federal Education Amendments of 1972 (20 U.S.C. 1681 et seq.) leaves LGBTI students without protection from discrimination, sexual harassment, and sexual assault.

Amnesty International Hawaii Chapter #449 supports H.B.1489 which would help protect LGBTI students who are vulnerable to abuse in the form of discrimination, sexual harassment, and sexual assault while participating in state programs and activities. The Hawaiian state legislature’s proposed bills would guarantee the right of students to bring “civil action” in the case that human rights abuses such as discrimination, sexual harassment, or sexual assault occur, helping to ensure all Hawaiians can enjoy their full human rights.



Hawaii Women's Coalition

COMMITTEE ON JUDICIARY
Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair

LATE

DATE: Tuesday, April 3, 2018
TIME: 9:15 a.m.
PLACE: Conference Room 016

STRONG SUPPORT FOR HB1489 that prohibits a state agency or program or activity receiving state financial assistance from excluding from participation, denying benefits to, or discriminating against a qualified individual by reason of disability, sex, including gender identity or expression, or sexual orientation. (HB1489 HD1)

Aloha Chair Taniguchi, Vice Chair Rhoads and members,

The Coalition is in **strong support** of this bill as a critical step in preserving the hard-won rights guaranteed under Title IX or the Patsy T. Mink Act.

The Trump administration has demonstrated its pervasive and pernicious misogyny in reversing the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, and gender identity and expression. The administration also rescinded protections for transgendered students that had been put into effect by President Obama.

What is most egregious is that USDOE rescinded its guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault. If you have doubts as to the pervasiveness of sex assault on campus we recommend you view "**The Hunting Ground**" now streaming on Amazon and Netflix:

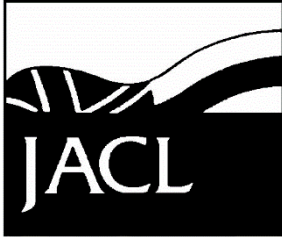
Please note the recent University of Hawaii Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. **For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, while 1 in 4 felt that an off-campus, university-sponsored event incident was likely.** In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.

As a 2nd wave feminist who has spent the bulk of her life fighting to achieve equity and safety for women I fervently request that you take this step to protect Hawaii from the sickening onslaught against women that is fostered by the current climate of hate-filled politics sweeping our country.

We are dismayed that the Department of Education thinks we need to wait for "policy review?" The girls and LGBT youth have waited long enough for a cessation of discrimination, harassment, bullying and abuse in our public schools.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition
Contact: annsfreed@gmail.com



JAPANESE AMERICAN CITIZENS LEAGUE

HONOLULU CHAPTER

P.O. BOX 1291, HONOLULU, HAWAII 96807

EMAIL: jaclhon@gmail.com WEBSITE: www.jaclhonolulu.org

Working For A Greater America

LATE

April 3, 2018

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Alan Murakami

To: Honorable Brian T. Taniguchi, Chair
Honorable Karl Rhoads, Vice Chair
Members of the Senate Committee on Judiciary

From: Kent Walther
Vice-President, Japanese American Citizens League – Honolulu Chapter

Re: HB 1489, HD1, SD1: Relating to Civil Rights

Chair Taniguchi, Vice Chair Rhoads, and Members of the Committee:

The Japanese American Citizens League (JACL) Honolulu Chapter is in **support** of HB 1489, HD1, SD1.

Founded in 1929, JACL is the nation's oldest and largest Asian Pacific American civil rights organization. Locally our organization works to protect the civil and human rights of all member of our community regardless of race, ethnicity, religion, sexual orientation, or any group effected by bigotry or discrimination.

HB 1489, HD1, SD1, seeks to prohibit discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receive state financial assistance. JACL recognizes the importance of this effort to ensure the intent of Title IX of the Education Amendments of 1972 remains intact and is enforced to the full extent in our state.

Thank you for considering our testimony in support of HB 1489, HD1, SD1.

LATE

HB-1489-SD-1

Submitted on: 4/2/2018 6:59:12 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
amanda	Individual	Support	Yes

Comments:

I Amanda Patrick, stand in stron support of this bill

HB-1489-SD-1

Submitted on: 4/2/2018 5:40:04 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Keliipaakaua	Individual	Support	No

Comments:

HB-1489-SD-1

Submitted on: 4/2/2018 6:12:00 PM

Testimony for JDC on 4/3/2018 9:15:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Kim Coco Iwamoto	Individual	Support	No

Comments:

Support with Amendments.

Because we force minors to go to our DOE campuses under threat of imprisonment for truancy, the state has the highest duty of care for these children. This duty of the state should not be thwarted by sovereign immunity. In addition there is an obvious power imbalance between students and responsible adults on campus that also elevates this duty of care. These children deserve at least the same rights that an adult on campus would have if they were subjected to the same harassment or discrimination - the ability to file a claim, seek damages and attorneys fees.

Furthermore, please realize that many of the minors who are victimized by the harassment or discrimination may not have sufficient skill sets to file claims on their own behalf, and many families may find the complaint process overwhelming. You could also imagine that a minor may not feel comfortable coming out to their parents about their victimization. For these reasons, it is **crucially important that you include “organizational standing”** to file and pursue complaints on behalf of students. Thank you for your consideration.

LATE

HB-1489-SD-1

Submitted on: 4/2/2018 9:03:19 PM
Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alison Beste	Individual	Support	No

Comments:

LATE

HB-1489-SD-1

Submitted on: 4/2/2018 10:16:34 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Salisbury	Testifying for National Federation of the Blind of Hawaii	Support	No

Comments:

HB-1489-SD-1

Submitted on: 4/2/2018 11:21:03 PM

Testimony for JDC on 4/3/2018 9:15:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Cu Ri Lee	Individual	Support	No

Comments:

HB-1489-SD-1

Submitted on: 4/3/2018 7:02:02 AM

Testimony for JDC on 4/3/2018 9:15:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Testifying for Democratic Party of Hawaii, Hawaiian Affairs Caucu	Support	No

Comments:

The Hawaiian Affairs Caucus of the Democratic Party of Hawaii supports HB1489 HD1 SD1 that prohibits discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance. Takes effect on 7/1/2019. (SD1)

According to the recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across 10 UH campuses: (Source: Loui, P. "University of Hawai'i Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary," Sept. 11, 2017), Native Hawaiian students are particularly vulnerable to all forms of gender violence on campus. We echo the concerns expressed of the Hawaii Teachers Association that, "Last year, President Donald Trump rescinded protections for transgendered students that had been put into effect by former President Barack Obama. This move was just the latest in a series of attacks on civil rights by the Trump administration causing concern for public school teachers, who are also worried about continued repeals of LGBT and immigrant protections by the Trump administration, threats to Title IX programming, and rising rates of LGBT bullying nationwide.

Discrimination in all forms is morally reprehensible. Hawai'i has a history of recognizing and defending against discrimination toward the LGBT community, carrying the distinction of being the state that inaugurated the legal battle for marriage equality in the landmark Baehr v. Miike ruling in 1993. Similarly, Board of Education Policy 305.10 prohibits discrimination under any DOE program and HRS Chapter 489 bans discrimination in public accommodations, including on the basis of gender or sexual orientation. It is imperative that in an era of uncertainty about LGBT rights, we strengthen protections in state law that are under clear and present danger of elimination by the federal government."

We strongly encourage your passage of this measure to advance the civil rights for LGBT families and their keiki.

HB-1489-SD-1

Submitted on: 4/3/2018 6:55:36 AM

Testimony for JDC on 4/3/2018 9:15:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Lindsay Kukona Pakele	Individual	Support	No

Comments:

I am in strong support of the latest version of H.B. 1489 because it serves as another option for survivors to pursue justice and healing.

When you are feeling abused, mistreated, vulnerable and so very alone, choices mean everything. In my own journey for justice, being presented with information and being allowed to choose from different options at a time when I felt so powerless was essential to my own journey to healing.

Moreover, when I encountered incompetence, insensitivity and gross negligence by the educational institutional that was supposed to help me, I felt even worse. However, having an option outside of that realm, would have allowed me to pursue another mechanism for redress.

My survivor story is now one of triumph but it wasn't always. I quit school for a few days because I was so traumatized by having to coexist with my perpetrator in school and by how terribly my educational institution handled my case. I quit school and I seriously considered never coming back. I have friends who didn't come back and there are so many survivors who choose their own mental health and well-being over fighting systems that don't see us as people and don't fight for us in the way we need them to.

In passing this bill, you provide one more option. For survivors, options combined with competency, sensitivity and a focus on justice and healing, are essential to making sure we have something left to rebuild our lives and our dreams with.

I have submitted testimony for this bill at every opportunity. I would love to be there today but I am helping my own clients on their journeys for justice and healing.

Pass this bill today and be part of the change that our world so desperately needs. To be a woman in a patriarchal world is a dangerous thing. Give us another tool to fight for our right to full personhood, dignity, safety and respect. Our lives and our dreams depend on it.

Lindsay Kukona Pakele, Esq.

4/3/18

To: Senator Taniguchi, Chair
Senator Rhoads, Vice Chair
Members of the Senate Committee on Judiciary
From: Ashley Ancheta Galacgac
Hearing: April 3, 2018, 9:15am, Conference Room 016
Re: TESTIMONY IN SUPPORT OF H.B. 1489– Relating to Civil Rights

LATE

Thank you for the opportunity to testify in SUPPORT of H.B. 1489, which would enact a state version of Title IX by prohibiting discrimination on the basis of sex in schools and workplace that receive state financial assistance.

I write to you as a graduate and current staff of the University of Hawai‘i (UH). It has been important that other students like me, from low-income indigenous and immigrant communities have the support system to succeed and to improve their lives and the lives of their families. I currently work in a Title I high school on Oahu. I am there to support students with their preparation and planning for college and careers. I am always inspired by students’ brilliance and commitment to contribute to their families and communities. I have seen the tremendous barriers young people and their families must overcome even before entering college. DOE has had over 60 years to come into compliance with this important civil rights legislation. We deserve more than assurances of compliance. We deserve effective enforcement. Students have many other matters that they can use their time, energy, and resources to take care of in K-12 and in higher education. Addressing gender-based violence should not be one of them. H.B. 1489 serves as the vital protection. This would demonstrate that the well being of students matter.

It was found that Native Hawaiian, Filipino, and LGBTQ students were overly represented in experiencing gender-based violence while at UH. Support of H.B. 1489 demonstrates the commitment to quality education that addresses the pervasive occurrence of gender-based violence. The recent University of Hawai‘i Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, while 1 in 4 felt that an off-campus, university-sponsored event incident was likely.¹ In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.² H.B. 1489 would contribute to providing a learning environment free from discrimination on the basis of sex. All then can thrive and succeed in achieving their goals. I am committed to providing the best education that students deserve and it is my hope that the leaders of Hawaii do the same.

H.B. 1489 is urgently needed in light of the current federal administration’s overt and concerted effort to dismantle federal anti-discrimination laws. The Trump administration has reversed the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, and gender identity and expression. The administration also rescinded protections for transgendered students that had been put into effect by President Obama. In addition, USDOE rescinded its

¹ Loui, P. “University of Hawai‘i Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary,” Sept. 11, 2017.

² *Id.*

guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault. This war on women, girls, and LGBT individuals calls upon all of us to take action.

In conclusion, I SUPPORT H.B. 1489. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,
Ashley Ancheta Galacgac