



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

Date: 02/13/2018
Time: 02:00 PM
Location: 325
Committee: House Judiciary

Department: Education

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

Title of Bill: HB 2139, HD1 RELATING TO DISCRIMINATION IN EDUCATION.

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. (HB2139 HD1)

Department's Position:

The Department of Education (Department) seeks clarification regarding the language in Section 2(b) (page 4, lines 14-20 and page 5, lines 1 and 2) on the jurisdiction of the commission to accept and investigate student charges. Furthermore, the Department seeks clarification whether this measure requires a notice of right to sue for a complaint filed with the commission in order to file a civil action alleging similar facts in circuit court.

It has been the Department's experience that charges filed with Hawaii Civil Rights Commission and its federal counterpart, the Equal Employment Opportunity Commission, pertain only to issues of employment discrimination. In contrast, allegations filed by students may be investigated by the Department and/or filed with the United States Department of Education, Office for Civil Rights.

The Department strongly supports Section 2(a) (page 4, lines 3-13) which prohibits discrimination on the basis of sex, including gender identity or expression and sexual orientation in state education programs and education programs or activities that receive state financial assistance. The Department is committed to Title IX of the Education Amendments of 1972 and the tenets that it upholds.

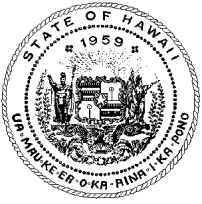
In support of the Department's efforts to educate its employees and students about their rights and protections under Title IX, the 2017 Legislature provided 15 new Civil Rights Compliance

Officers. Twelve of the 15 positions have been filled since January 2018 and three positions are in active recruitment. The Department respectfully requests the opportunity to implement its expanded programs and services before considering the expansion of the Hawaii Civil Rights Commission's jurisdiction to include student complaints.

We look forward to working with the Hawaii Civil Rights Commission.

Thank you for the 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

HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 13, 2018
Rm. 325, 2:00 p.m.

To: The Honorable Scott Y. Nishimoto, Chair
Members of the House Committee on Judiciary

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

Re: H.B. No. 2139, H.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. 2139, H.D.1.

If enacted, H.B. No. 2139, H.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. 2139 addresses this anomaly.

H.B. No. 2139, H.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.

The HCRC supports H.B. No. 2139, H.D.1, and urges the Committee’s favorable consideration.

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Rick Collins, President

Judith F. Clark, Executive
Director

Bay Clinic

Big Brothers Big Sisters of
Hawaii

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of
West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action
Network

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Maui Youth and Family Services

P.A.R.E.N.T.S., Inc.

Parents and Children Together
(PACT)

Planned Parenthood of the
Great Northwest and
Hawaiian Islands

PHOCUSED

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community
Center

The Catalyst Group

February 9, 2018

To: Representative Scott Nishimoto, Chair
And members of the Committee on Judiciary

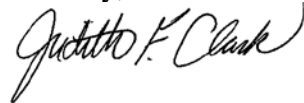
TESTIMONY IN SUPPORT OF HB 2139 HD1 RELATING TO DISCRIMINATION IN EDUCATION

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports HB 2139 HD1 Relating to Discrimination in Education.

All children and youth deserve the right to participate fully in school-based academic, sports, and other educational activities and opportunities. No child should be discriminated against based on basis of sex, including gender identity or expression, or sexual orientation basis of sex, including gender identity or expression, or sexual orientation.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director



January 29, 2018

House's Committee on Judiciary
Hawai'i State Capitol
415 South Beretania Street, Room 325
Honolulu, HI 96813

Hearing: Tuesday, February 13, 2018 – 2:00 p.m.

RE: STRONG SUPPORT for House Bill 2139 HD 1 – RELATING TO DISCRIMINATION IN EDUCATION

Aloha Chairperson Nishimoto, Vice-Chair San Buenaventura and fellow committee members,

I am writing in STRONG SUPPORT to House Bill 2139 HD 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 2139 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.

The LGBT Caucus believes that any state educational programs or activities should not be allowed to discriminate against anyone in any of the protected classes. Now with the current Federal Administration looking to strip all protections that they can from the LGBTQIA community HB 2139 is so desperately needed.

In 2017 a survey, conducted by The Harris Poll on behalf of GLAAD (Gay Lesbian Alliance Against Defamation), an LGBT media advocacy group, showed for the first time in four years a decline in acceptance for members of the LGBT Community. Which we believe is in direct response to the current Federal Administration's efforts to strip away any and all protections for the LGBTQIA community.

In the past year we have seen the current Federal Administration even advocate for discrimination against our transgender 'ohana members at every level – from serving in the military to receiving basic health services. There appears no end in sight and so we ask that you do what you can to protect all members of Hawaii's LGBTQIA community.

According to a nationally representative survey performed by Center for American Progress, 1 in 4 members of the LGBT community reported facing discrimination in 2016. Among people who experienced sexual orientation- or gender-identity-based discrimination:

- 68.5 percent reported that discrimination at least somewhat negatively affected their psychological well-being.
- 43.7 percent reported that discrimination negatively impacted their physical well-being.
- 47.7 percent reported that discrimination negatively impacted their spiritual well-being.
- 38.5 percent reported discrimination negatively impacted their school environment.
- 56.6 report it negatively impacted their neighborhood and community environment.

So for all these reasons we hope that you all will support HB 2139 HD 1.

Thank you for your thoughtful consideration of HB 2139 HD 1.

Mahalo nui loa,

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



Hawai'i

Committee: House Committee on Judiciary
Hearing Date/Time: Tuesday, February 13, 2018, 2:00 p.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawai'i in **Support** of H.B. 2139, H.D. 1
Relating to Discrimination in Education

Dear Chair Nishimoto, Vice Chair Buenaventura, and Committee Members:

The American Civil Liberties Union of Hawai'i ("**ACLU of Hawai'i**") writes in **strong support** of H.B. 2139, H.D. 1, which seeks to provide for a state corollary to Title IX protecting students from discrimination on the basis of sex, including sexual orientation and gender identity and expression, in any state educational program or activity and in any educational program or activity that receives state funds.

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 and girls' 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.

With 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 covered discrimination based on sexual orientation and gender identity and expression, adopting a state corollary to Title IX in Hawai'i state law is vital. 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, and so we ask that your Committee reaffirm such protections by passing H.B. 2139, H.D. 1.

Thank you for the opportunity to testify.

Sincerely,

Mateo Caballero
Legal Director
ACLU of Hawai'i

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.

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

To: Hawaii State House Committee on Judiciary
Hearing Date/Time: Tuesday, Feb. 13, 2018, 2:00 pm.
Place: Hawaii State Capitol, Rm. 325
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 2139, HD1, relating to Discrimination in Education

Dear Chair Nishimoto and Members of the Committees,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of H.B. 2139, HD1, 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.

H.B. 2139 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 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.¹ In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.²

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

Sincerely,

Laurie Field
Hawaii Legislative Director

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.



healthymothers
healthybabies

COALITION OF HAWAII

To: House Committee on Judiciary
Place: State Capitol, Conference Room 325
Time/Date: February 13, 2018, 2:00 p.m
Re: TESTIMONY IN SUPPORT OF H.B. 2139 HD1 – RELATING TO DISCRIMINATION IN EDUCATION

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139 HD1, 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.

Healthy Mothers Healthy Babies Coalition of Hawaii believes that the foundation to a fair and prosperous society begins with offering equal opportunities to women and girls. H.B. 2139 HD1 is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws, including:

- The reversal of the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, gender identity and expression.
- Rescinded protections for transgendered students.
- Rescinded 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.

To ensure that no state agency be allowed to discriminate on the basis of sex, we request that you also please extend this bill to cover all state-funded programs and services.

We stand in SUPPORT of H.B. 2139 HD1 and respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Lisa Kimura
Executive Director
Healthy Mothers Healthy Babies Coalition of Hawaii

Healthy Mothers Healthy Babies Coalition of Hawaii | Phone: 808.737.5805

245 N. Kukui St. #102A, Honolulu, HI 96817 | WWW.HMHB-HAWAII.ORG



ACOG
The American College of
Obstetricians and Gynecologists

*American College of
Obstetricians and Gynecologists
District VIII, Hawai'i (Guam & American
Samoa) Section*

TO: Representative Scott Y. Nishimoto, Chair – House Committee on Judiciary
Representative Joy A. San Buenaventura, Vice Chair – House Committee on Judiciary

DATE: Tuesday, February 13, 2018, 2:00PM
PLACE: Conference Room 325

FROM: Hawaii Section, ACOG
Dr. Greigh Hirata, MD, FACOG, Chair
Dr. Chrystie Fujimoto, MD, FACOG, Vice-Chair
Dr. Reni Soon, MD, MPH, FACOG, Legislative Chair
Lauren Zirbel, Community and Government Relations

HB 2139: Relating to Discrimination in Education
Position: SUPPORT

The Hawai'i Section of the American College of Obstetricians and Gynecologists (HI ACOG) supports HB 2139, which would enact a state version of Title IX by prohibiting discrimination on the basis of sex, including gender identity or expression, or sexual orientation in educational programs and activities that receive state financial assistance. As a Section of the Nation's leading group of physicians dedicated to ensuring quality health care for women, HI ACOG represents more than 200 obstetrician/gynecologist physicians in our state.

Our organization recognizes the importance of education in the overall advancement and wellbeing of individuals and communities, and we advocate for everyone's right to access education in an environment free of sexual harassment, assault or any discrimination based on sexual orientation or gender identity. In light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws, HB 2139 is urgently needed.

The importance of a state-level solution was made even more evident by a recent University of Hawai'i Climate Survey Report, which was sent to 44,671 adult students across ten UH campuses. Almost 1 in 10 respondents reported experiencing sexual harassment (with a horrific 34% reporting that the offender was UH faculty or staff).¹ The survey also found higher rates of sexual harassment, stalking, non-consensual sexual contacted reported by female undergraduates, Native Hawaiian students, transgender/genderqueer/non-conforming students, lesbian/gay/bisexual students, and students with disabilities. These statistics are appalling, and it is incumbent upon all of us to do what we can to address this discrimination and violence.

HB 2139 has never been more needed. As an organization dedicated to the health and wellbeing not only of women, but families and communities as well, HI ACOG respectfully urges your Committee to pass this critical bill.

Thank you for the opportunity to testify.

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

Testimony in SUPPORT of HB2139
Hawai'i State House Committee on Judiciary
Tuesday Feb 13, 2018 | Conference Rm 325, 2:00pm
Tiffany Peek | tkhampha@hawaii.edu | 95-2047 Waikalani Pl., Mililani, HI, 96789

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee,

My name is Tiffany Peek, and I am currently a senior at the Myron B. Thompson School of Social Work 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 HB2139** and respectfully urge you to pass HB2139 in order to protect Hawai'i students from discrimination and sexual harassment and assault, especially in light of the Trump administration's plans to roll back these protections at the federal level.

Recently, 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, further revealing 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 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. Generation Action, too, along with several other resources on campus, are personally working to promote safer campus climates by spearheading several initiatives, such as our upcoming Manoa Says No More Fair which would help bring visibility to our many great resources on campus and directly connect students with them. HB2139 ensures safer learning environments for all students, a policy especially critical in a time when advocates and survivors are stepping forward in swell numbers, 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.

It is now apparent that 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, we request that you extend this bill to cover all state funded programs and services.

Thank you for the opportunity to submit testimony for HB2139. Again, I support HB2139 and respectfully urge you to PASS this vital bill.

Sincerely,
Tiffany Peek

To: Hawaii Senate Committee on Judiciary

Re: Testimony in SUPPORT of H.B.2139, relating to Discrimination in Education

Date/Time: Tuesday, February 13, 2018, 2:00 p.m. at Capitol, Rm. 225

Aloha, Chair Nishimoto, Vice Chair San Buenaventura and members of the Judiciary Committee:

Thank you for the opportunity to testify in **SUPPORT** of H.B. 2139, a state version of Title IX which would prohibit discrimination on the basis of sex in educational programs and activities that receive state financial assistance.

It has been over 45 years since the federal Title IX equal opportunity in Education bill was introduced by Hawaii's own Patsy T. Mink and passed by Congress. The country has seen slow but steady progress of equality in education. However, a danger now lies in a federal administration that is working to roll back protections of Title IX. Hawaii needs this bill to ensure non-discrimination in state-funded education.

Further, HCRC testimony points out that 'adult employees of the education system are provided greater legal protections against sexual harassment in state educational programs than students.' This appears to be a serious shortcoming in Hawaii State law and one that needs correction. I feel this bill will provide students and parents a tool they can use to protect Hawaii's students from discrimination in education.

Thank you,

Amy Monk

Commissioner,

Hawaii State Commission on the Status of Women



TESTIMONY IN SUPPORT OF
H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

Nadine Ortega, J.D.
Coordinator, AF3IRM Hawai'i

House Committees on Judiciary
February 13, 2018, 2:00 p.m., Conference Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura and Members of the Committee:

On behalf of AF3IRM Hawai'i, I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, which would enact a state version of Title IX by prohibiting sex-based discrimination in educational programs and activities that receive state financial assistance. Our organization has spent the last three years organizing women students, and the bulk of our membership are graduates or current students of the University of Hawai'i. From this work, we that know that sex discrimination, including sexual harassment and sexual assault, remains a significant, if underreported, obstacle for women and girls in Hawai'i. This is especially true of Native Hawaiian women.

We also know that sex discrimination follows us into the workplace. To ensure that no state agency be allowed to discriminate on the basis of sex and to ensure that our schools are spaces free of sex discrimination and gender violence for students of all ages, we request that you amend this bill to cover all state funded programs and services.

H.B. 2139 is a critical response to 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.

Studies show that about 20 percent of girls and 5 percent of boys are victims of sexual abuse, with children most vulnerable between the ages of 7 and 13.¹ 44 percent of attacks take place before the individual enrolls in college and children who experience sexual violence are nearly 14 times as likely as those who don't to experience rape or attempted rape in their first year of college.² Despite these grim statistics, K-12 schools remain pitifully unprepared and irresponsibly reluctant to act. Experts agree that college is way too late to address issues of sexual violence—a 2013 study revealed that one in ten people between the ages of 14-21 has already committed an act of sexual violence.³

Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Nadine Ortega, J.D.
Coordinator, AF3IRM Hawai'i

¹ National Center for Victims of Crime, Child Abuse Statistics, <http://victimsofcrime.org/media/reporting-on-child-sexual-abuse/child-sexual-abuse-statistics> (last updated 2012).

² *Id.*

³ Michele L. Ybarra & Kimberly J. Mitchell, *Prevalence Rates of Male and Female Sexual Violence Perpetrators in a National Sample of Adolescents*, 12 JAMA PEDIATRICS 1125 (Dec. 2013).



TO: Chair Nishimoto
Vice Chair San Buenaventura
Members of the Committee

FR: Nanci Kreidman, M.A

Re: HB 2139 HD1 Support Relating to Discrimination in Education

Aloha. This is a very important Bill for advancing protections needed by students pursuing educational opportunities. Domestic Violence Action Center is in full support of this Act to provide a state corollary to Title IX 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, without regard to whether the educational program or activity also receives federal funds.

The recent wave of sexual harassment and sexual assault revelations uplifted through the #metoo movement have made clear that gender-based violence and harassment persists. In light of that, we cannot afford to allow the Trump administration to succeed in their efforts to dismantle anti-discrimination laws, and individuals who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault.

We must work together to continue to position Hawaii as a leader in initiatives allowing choice, freedom, access to information, safety and protections from exploitation and harassment.

Thank you.



February 11, 2018

To: Hawaii State House Committee on Judiciary
Hearing Date/Time: Tuesday, February 13, 2018 (2:00 pm)
Place: Hawaii State Capitol, Rm. 325
Re: Testimony in support of H.B. 2139 H.B. 1

Dear Representative Scott Y. Nishimoto (Chair), Representative Joy San Buenaventura (Vice Chair), and Members of the Committee,

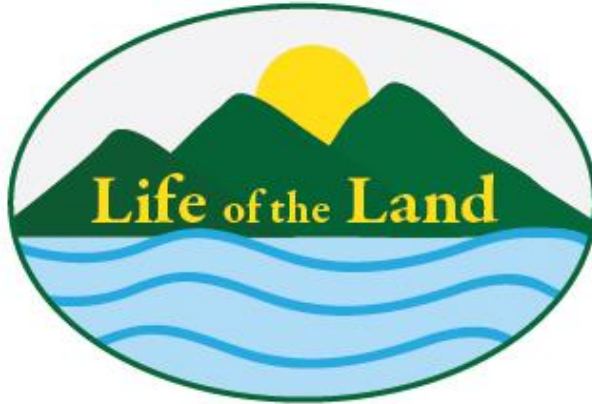
I am grateful for this opportunity to testify in **strong support of H.B. 2139, H.B. 1** relating to discrimination in education, and the incorporation of national Title IX protections in Hawai‘i state law. Patsy T. Mink’s legacy is under threat outside the state, and given the tremendous progress made in tertiary-level educational policy in Hawai‘i, it should be protected here.

My testimony is on behalf of the approximately 400 members of the American Association of University Women (AAUW) in Hawai‘i, who list gender violence (including Title IX) as important current concerns. My testimony is informed by many years of teaching at the University of Hawai‘i – Mānoa, where my students have told me stories about discrimination, based on all the components in this bill (i.e., “sex, including gender identity or expression, or sexual orientation” [p. 3, lines 13-14]). At this point in time, with the increasing mainland attacks on civil rights, it is important to support minority groups under threat here with state-level action. Not only does this honor Patsy T. Mink’s legacy, but it also honors Native Hawaiian residents, since Hawai‘i was a region with a greater range of gender identities than those found in European nations at contact. While one might hope that 18th-century-type prejudice and discrimination would be eliminated by the year 2018, there are a wealth of studies indicating that such is not the case (e.g., Besnier & Alexeyeff [2014], Odo & Hawelu [2011], etc.), indicating the need for legal protections of the rights of all students in Hawai‘i.

For all these reasons, I argue that passage of H.B. 2139 H.B. 1 is important, with potential to improve the wellbeing of many residents of Hawai‘i.

Thank you for the opportunity to testify.

Sincerely
Susan J. Wurtzburg
Ph.D., Policy Chair



P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Tuesday, February 13

2:00PM

Conference Room 325

Re: HB2139 HD1 Title IX

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land is a strong advocate for equality, equity, and justice. Please pass this bill.

Mahalo,

Henry Curtis

Executive Director



Hawaii Women's Coalition

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

DATE: Tuesday, February 13, 2018

TIME: 2 p.m.

PLACE: Conference Room 325

STRONG SUPPORT

Aloha Chair Nishimoto, Vice Chari San Buenaventura 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 it's 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:

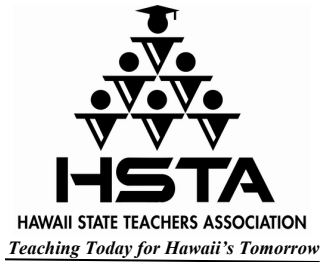
Please note the recent University of Hawaii Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while 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.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition

Contact: annsfreed@gmail.com Phone: 808-623-5676



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

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

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
JUDICIARY

RE: HB 2139, HD 1 - RELATING TO DISCRIMINATION IN EDUCATION

TUESDAY, FEBRUARY 13, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Nishimoto and Members of the Committee:

The Hawaii State Teachers Association **supports HB 2139, HD 1**, relating to discrimination in education.

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.

Hawaii State House Committee on Judiciary
Tuesday, February 13th, 2018
Conference Room 325

TESTIMONY IN SUPPORT OF
H.B. 2139 HD1– RELATING TO DISCRIMINATION IN EDUCATION

Dear Chair Nishimoto, Vice-Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B 2139 HD1 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 2139 HD1 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 current 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.

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

Recommended Amendments

To ensure that no state agency be allowed to discriminate on the basis of sex, we request that you extend this bill to cover all state funded programs and services.

Accordingly, I SUPPORT H.B 2139 HD1. 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-2139-HD-1

Submitted on: 2/12/2018 12:51:07 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jun Shin	Young Progressives Demanding Action - Hawaii	Support	No

Comments:



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

**TESTIMONY FOR HOUSE BILL 2139, HOUSE DRAFT 1, RELATING TO
DISCRIMINATION IN EDUCATION**

**House Committee on Judiciary
Hon. Scott Y. Nishimoto, Chair
Hon. Joy A. San Buenaventura, Vice Chair**

**Tuesday, February 13, 2018, 2:00 PM
State Capitol, Conference Room 325**

Honorable Chair Nishimoto and committee members:

I am Kris Coffield, representing IMUAlliance, 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 2139, HD 1, relating to discrimination in education.

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



Life Foundation & The CHOW Project

677 Ala Moana Boulevard, Suite 226
Honolulu, HI 96813
(808) 521-2437 | (808) 853-3292



TESTIMONY IN SUPPORT OF HB 2139: RELATING TO DISCRIMINATION IN EDUCATION

TO: House Committee on Judiciary
FROM: Heather Lusk, Executive Director, CHOW Project/Life Foundation
HEARING: TUESDAY, FEB 13, 2018 2:00 PM Conference Room 329, State Capitol

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

Thank you for the opportunity to testify in **strong support of HB 2139** 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.

H.B. 2139 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.¹ In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while

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

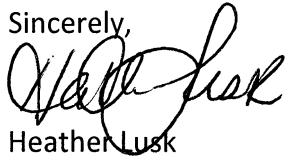
enrolled at UH. ²

Recently, the Hawaii Department of Health released the Hawai'i Sexual and Gender Minority Health Report (Health Report). This ground-breaking document has provided us in the community with the data we need to better serve our lesbian, gay, bisexual (LGB) and other sexual and gender minority communities. A higher occurrence of adverse experiences in Hawai'i's LGB communities highlights the causal relationship between exposure to trauma, minority stress, and poor health outcomes. This valuable comprehensive data regarding the needs of our LGB communities will serve as a strong foundation for future programming and policy making. This report highlights more than ever the importance of eliminating discrimination against this community within State and Federal Funded Educational programs.

The Life Foundation and the CHOW Project both serve the Lesbian, Gay, Bisexual and Transgender Communities in Hawaii and have more than 25 years of experience addressing the disparities within our community – disparities that can be addressed by enacting HB 2139. Please pass this important measure.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Lusk". The signature is fluid and cursive, with the first name "Heather" and last name "Lusk" clearly distinguishable.

Heather Lusk

Executive Director

CHOW Project + Life Foundation



49 South Hotel Street, Room 314 Honolulu HI 96813
www.lwv-hawaii.com 808.532.7448 voters@lwv-hawaii.com

JUDICIARY COMMITTEE
Tuesday, February 13, 2018, 2:00 PM, Room 325

HB2139 HD 1 RELATING TO DISCRIMINATION IN EDUCATION

Laurie Tomchak, Legislative Committee, League of Women Voters
TESTIMONY

Chair Nishimoto, Vice Chair San Buenaventura, and Committee Members

HB2139: Prohibits discrimination based on 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 League supports HB2139 HD1 (Companion Bill SB 2353) which would enact a state version of Federal Title IX by prohibiting discrimination based on gender in educational programs and activities that receive state financial assistance.

HB2139 is required to counteract the current attempt at the federal level to dismantle anti-discrimination laws. It is vital to shore up protections in Hawai'i against discrimination based on sexual orientation, gender identity and expression. Transgendered students should continue to enjoy the protections put in place by the previous federal administration. In the current administration the US Department of Education rescinded its guidance on the investigation of campus sex assaults. Because of this removal, women who have experienced sexual assault or harassment are not federally protected. Women and LGBT people deserve continued protection.

The 2017 University of Hawai'i Climate Survey on Sexual Harassment and Gender-Based Violence, which polled 44,671 adult students on the ten UH campuses, further reveals the necessity for a state-level solution. In the survey, one in eight students felt that it was likely that they would experience sexual assault or sexual harassment when on campus, while one in four felt that assault or harassment would be likely to occur at an off-campus university-sponsored event. One in sixteen UH survey participants system-wide reported non-consensual sexual contact while enrolled at UH.

Proposed amendment

In view of the rollbacks of the enforcement of federal regulations against sex discrimination beyond education we request that you extend this bill to cover all state funded programs and services.

Thank you for the opportunity to provide testimony.

TO: Representative Scott Y. Nishimoto, Chair – House Committee on Judiciary
Representative Joy A. San Buenaventura, Vice Chair – House Committee on Judiciary

DATE: Tuesday, February 13, 2018, 2:00PM
PLACE: Conference Room 325

FROM: Ronnie Texeira, MD OB-GYN

HB 2139: Relating to Discrimination in Education
Position: SUPPORT

The Hawai'i Section of the American College of Obstetricians and Gynecologists (HI ACOG) supports HB 2139, which would enact a state version of Title IX by prohibiting discrimination on the basis of sex, including gender identity or expression, or sexual orientation in educational programs and activities that receive state financial assistance. As a Section of the Nation's leading group of physicians dedicated to ensuring quality health care for women, HI ACOG represents more than 200 obstetrician/gynecologist physicians in our state.

Our organization recognizes the importance of education in the overall advancement and wellbeing of individuals and communities, and we advocate for everyone's right to access education in an environment free of sexual harassment, assault or any discrimination based on sexual orientation or gender identity. In light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws, HB 2139 is urgently needed.

The importance of a state-level solution was made even more evident by a recent University of Hawai'i Climate Survey Report, which was sent to 44,671 adult students across ten UH campuses. Almost 1 in 10 respondents reported experiencing sexual harassment (with a horrific 34% reporting that the offender was UH faculty or staff).¹ The survey also found higher rates of sexual harassment, stalking, non-consensual sexual contacted reported by female undergraduates, Native Hawaiian students, transgender/genderqueer/non-conforming students, lesbian/gay/bisexual students, and students with disabilities. These statistics are appalling, and it is incumbent upon all of us to do what we can to address this discrimination and violence.

HB 2139 has never been more needed. As an organization dedicated to the health and wellbeing not only of women, but families and communities as well, HI ACOG respectfully urges your Committee to pass this critical bill.

Thank you for the opportunity to testify.

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

HB-2139-HD-1

Submitted on: 2/10/2018 7:57:55 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

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

Comments:

HB-2139-HD-1

Submitted on: 2/11/2018 7:16:04 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

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

Comments:

Chair Nishimoto, Vice-Chair San Buenaventura, and Members of the House Committee on Judiciary,

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, 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.

H.B. 2139 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.

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:[\[1\]](#)

1. 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;
2. Girls were more likely than boys to be sexually harassed, by a significant margin (56 percent versus 40 percent);
3. 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;[\[2\]](#)

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

As a member of American Association of University Women (AAUW) Hawaii and a mom, I strongly support H.B. 2139 to protect our keiki from sexual harassment and sexual assault regardless of their gender, gender identity or expression, and sexual orientation. Please PASS this important measure.

Thank you for the opportunity to testify for this important measure.

References:

[1] Hill, C., "Crossing the Line: Sexual Harassment at School," Nov. 2011.

[2] Yuen, P., "Three-Fourths of Schools Report Zero Incidents of Sexual Harassment in Grades 7-12," Oct. 24, 2017.

HB-2139-HD-1

Submitted on: 2/11/2018 12:39:03 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

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

Comments:

TESTIMONY IN SUPPORT OF

H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary

[February 13, 2018, 2:00 p.m.](#), Conference Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, 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.

H.B. 2139 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.

Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

--

Nanea Lo

Office Manager

Native Hawaiian Student Services

University of Hawai'i at Mānoa

Queen Lili'uokalani Center for Student Services #104

Kamakakūōkalani Center for Hawaiian Knowledge #211

Phone: [\(808\)454-3504](tel:8084543504)

Email: naneaclo@gmail.com

Some people say that Hawai'i will be a better place when Hawaiians no longer stand in the way of progress. But even these people must know that at this point, this will no longer be Hawai'i. - Jonathan Kay Kamakawiwo'ole Osorio. The Value of Hawai'i



Aloha Chair Nishimoto, Vice Chair San Buenaventura and members of the House Committee on Judiciary,

The Young Progressives Demanding Action – Hawai‘i, representing nearly 600 registered members, **strongly supports** HB2139.

Title IX radically changed the education landscape in our nation by prohibiting discrimination on the basis of sex by any education program or activity receiving federal funds. Title IX was renamed the Patsy Mink Equal Opportunity in Education Act in 2002 after the late Congresswoman's passing, in recognition of her leadership and courage in fighting for this model of social justice legislation.

Congresswoman Mink was a fierce advocate for women's rights and for equality, and will forever be remembered as a champion for working people. Who can forget her electric speech in the midst of the statewide teacher's unions strike in 2000, when she stormed down to the State Capitol rotunda to join the members of HSTA and UHPA protesting there and thundered against the thuggish tactics of the Cayetano administration in suppressing the collective bargaining rights of Hawai‘i's public school teachers, my father included? The more she talked about how the governor was torpedoing the labor progress she had worked her whole career to advance, the angrier she got. But she never lost her focus or her articulation of her vision in which justice prevailed. It was the kind of speech that made you feel like the ends of your hair had caught fire.

Congresswoman Mink was the person who first instilled in me a desire to fight for social justice within the political framework. The first letter I ever wrote to a Congressperson was addressed to her. I was 12 years old and, though I cannot even remember the subject of the letter, I will never forget her reply: “Thank you for getting involved. You give me hope for our future.”

Hawai‘i should be proud of Congresswoman Mink's legacy. Her signature piece of legislation has given millions of young women opportunities that they never thought possible, in the classroom, on the

playing field and in research. These opportunities extended beyond education, into teaching, employment, medicine, law and dozens of other professions once considered the exclusive domain of men. Her contributions to justice and equality cannot be overstated.

But Congresswoman Mink's legacy has yet to be fully realized. The federal protections against sex discrimination in education outlined within Title IX have been diminished and eroded by a backlash of regression spearheaded by privileged men who fear the growing tide of equity she fought for, and who have poured their riches into campaigns to reverse the trend of progress that Congresswoman Mink worked her entire life to promote. Across the nation, and now in the White House as well, these forces continue to work against equality and justice in the hope that they can continue to dominate women, minorities, and the poor and to keep the many in servitude to the selfish benefit of the few. For these reasons, it is time to address the need for a corollary to Title IX to be enshrined in our own state law.

In 2017, the Trump Administration 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. It also issued an interim rule rescinding its guidance on the investigation of campus sex assaults.

These rollbacks are completely unacceptable. We must protect the students entrusted to our schools from sex discrimination, including sexual harassment and sexual assault. We must enact a state corollary to Title IX 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, without regard to whether the educational program or activity also receives federal funds.

Congresswoman Mink had great hope for our future because she saw the willingness of young people to stand up for equality and justice—to continue to fight for the ideals that she spent her life fighting for, and to push them even further. We must never stop fighting for the rights of our fellow humans, regardless of gender, sexual identity or any other marker that makes us unique. We must never give in to those who would seek to turn those markers against us and use them to divide us and weaken us. Because they know that when we stand together in defense of our human rights, we are so much stronger than they are. Congresswoman Mink knew it as well, and so too do we affirm this truth in our support for this bill. Please pass HB2139.

Mahalo,

Will Caron
Social Justice Action Committee Chair
8083874920

HB-2139-HD-1

Submitted on: 2/11/2018 5:56:34 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

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

Comments:

I support and urge your committee to pass HB2139.

HB-2139-HD-1

Submitted on: 2/11/2018 6:55:08 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack		Support	No

Comments:



February 13, 2018

To: Representative Scott Nishimoto, Chair
Representative Joy San Buenaventura, Vice Chair and
Members of the Committee on Judiciary

From: Jeanne Y. Ohta, Co-Chair

RE: HB 2139 Relating to Discrimination in Education
Hearing: Tuesday, February 13, 2018, 2:00 p.m., Room 325

POSITION: Strong Support

The Hawai'i State Democratic Women's Caucus writes in strong support of HB 2139 HD1 Relating to Discrimination in Education which codifies into state law Title IX (the Patsy T. Mink Equity in Education Act), the landmark federal law that prohibits the denial of benefits to or discrimination against a qualified individual on the basis of sex in educational programs and activities.

This measure is urgently needed because The Trump administration 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. USDOE also rescinded its guidance on the investigation of campus sex assaults. Further, the Trump administration rescinded protections for transgendered students that had been put into effect by the Obama administration.

Currently, a minor student who is the victim of sexual harassment or sexual assault that was perpetrated at school by an adult employee or administrator has no effective civil rights protection.

The recent wave of sexual harassment and sexual assault revelations uplifted through the #metoo movement have made clear that gender-based violence and harassment persists throughout the United States, including Hawai'i.

According to the recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across 10 UH campuses:¹

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

- 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.

Title IX is meant to provide all students with a safe environment on all campuses so that they have equal access to education. We ask that the committee pass this measure to protect our students.

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. Thank you for the opportunity to provide testimony.

HB-2139-HD-1

Submitted on: 2/12/2018 5:15:20 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Smith		Support	No

Comments:

HB-2139-HD-1

Submitted on: 2/12/2018 6:35:48 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Judy McCluskey		Support	No

Comments:

I am in support of H.B. 2139 which would enact protections from discrimination based on "sex" . This is needed because the Federal Government rescinded protections for transgender students and weakened guidance on the investigation of campus sex assaults. This makes it more difficult for victims of this kind of violation--especially women and girls and members of the LGBT community to seek legal protection and recourse. Please pass this bill so our society doesn't regress to condoning discrimination. Thank you.

HB-2139-HD-1

Submitted on: 2/12/2018 8:58:13 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Thaddeus Pham	Individual	Support	No

Comments:

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

Thank you for the opportunity to testify in **strong support of HB 2139** 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.

As a public health professional and resident of Hawaii, I know that H.B. 2139 is urgently needed in light of recent local data that highlights clear disparities for many of our community members.

In a recent University of Hawai'i Climate Survey Report, which polled 44,671 adult students across ten UH campuses, about 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.

Recently, the Hawaii Department of Health released the Hawai'i Sexual and Gender Minority Health Report (Health Report). This ground-breaking document has provided us in the community with the data we need to better serve our lesbian, gay, bisexual (LGB) and other sexual and gender minority communities. A higher occurrence of adverse experiences in Hawai'i's LGB communities highlights the causal relationship between exposure to trauma, minority stress, and poor health outcomes. This valuable comprehensive data regarding the needs of our LGB communities will serve as a strong foundation for future programming and policy making. This report highlights more than ever the importance of eliminating discrimination against this community within State and Federal Funded Educational programs.

Please pass this important measure.

Thank you for the opportunity to testify.

HB-2139-HD-1

Submitted on: 2/12/2018 9:08:33 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Quigley	Individual	Support	No

Comments:

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

Thank you for the opportunity to testify in **strong support of HB 2139** 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.

H.B. 2139 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. [\[1\]](#) In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH. [\[2\]](#)

Recently, the Hawaii Department of Health released the Hawai'i Sexual and Gender Minority Health Report (Health Report). This ground-breaking document has provided us in the community with the data we need to better serve our lesbian, gay, bisexual (LGB) and other sexual and gender minority communities. A higher occurrence of adverse experiences in Hawai'i's LGB communities highlights the causal relationship between exposure to trauma, minority stress, and poor health outcomes. This valuable comprehensive data regarding the needs of our LGB communities will serve as a strong foundation for future programming and policy making. This report highlights more than

ever the importance of eliminating discrimination against this community within State and Federal Funded Educational programs.

The Life Foundation and the CHOW Project both serve the Lesbian, Gay, Bisexual and Transgender Communities in Hawaii and have more than 25 years of experience addressing the disparities within our community – disparities that can be addressed by enacting HB 2139. Please pass this important measure.

Thank you for the opportunity to testify.

[\[1\]](#) Loui, P. “University of Hawai’i Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary,” Sept. 11, 2017.

HB-2139-HD-1

Submitted on: 2/12/2018 9:24:39 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Tomita	Individual	Support	No

Comments:

HB-2139-HD-1

Submitted on: 2/12/2018 10:03:58 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kunane Dreier	Individual	Support	No

Comments:

Thank you for the opportunity to testify in **strong support of HB 2139** 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.

H.B. 2139 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. [\[1\]](#) In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH. [\[2\]](#)

Recently, the Hawaii Department of Health released the Hawai'i Sexual and Gender Minority Health Report (Health Report). This ground-breaking document has provided us in the community with the data we need to better serve our lesbian, gay, bisexual (LGB) and other sexual and gender minority communities. A higher occurrence of adverse experiences in Hawai'i's LGB communities highlights the causal relationship between exposure to trauma, minority stress, and poor health outcomes. This valuable comprehensive data regarding the needs of our LGB communities will serve as a strong foundation for future programming and policy making. This report highlights more than ever the importance of eliminating discrimination against this community within State and Federal Funded Educational programs.

The Life Foundation and the CHOW Project both serve the Lesbian, Gay, Bisexual and Transgender Communities in Hawaii and have more than 25 years of experience addressing the disparities within our community – disparities that can be addressed by enacting HB 2139. Please pass this important measure.

Thank you for the opportunity to testify.

[\[1\]](#) Loui, P. “University of Hawai’i Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary,” Sept. 11, 2017.

Hearing Date: February 13, 2018, 2:00 PM, Conference Room 325

To: Chair Representative Scott Y Nishimoto, Vice Chair Representative Joy A Sam Buenaventura, and Members of the House of Representatives Committee on Judiciary

From: Jean Evans, MPH (Individual, jevans9999@yahoo.com, 808-728-1152)

**Re: TESTIMONY IN SUPPORT OF HB 2139, HD1 RELATING TO
DISCRIMINATION IN EDUCATION**

My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies and received both my baccalaureate and graduate degrees from the University of Hawaii at Manoa. I am also a member of AAUW Hawaii.

I am in strong support of HB 2139, HD1 Relating to Discrimination in Education.

The Trump administration's decision to reverse the federal government's active stance on upholding the investigation of campus sex assaults and harassment is very troublesome, especially in light of the "Me Too" movement. In addition, the new prohibition against discrimination based on sexual orientation and gender identity can lead to overt bullying, and ultimately unequal educational opportunities. The college experience is a time where students expand their knowledge and prepare for careers. It can also be a stressful time especially if young women and transgender students are fearful. I believe this bill will help assure Hawaii continues to remain a leader in civil rights and follow in the footsteps of Patsy T. Mink.

I encourage you to pass HB 2139, HD1

Mahalo for allowing me to submit my testimony today.

HB-2139-HD-1

Submitted on: 2/12/2018 11:00:42 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
RUSSELL ABORDO	Individual	Support	No

Comments:

I'd like to testify in strong support of HB 2139 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.

H.B. 2139 is urgently needed in light of the current federal administration's overt and concerted effort to dismantle federal anti-discrimination laws.

Executive Director
Adriana Ramelli

Advisory Board

President
Mimi Beams

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

Kristen Bonilla

Marilyn Carlsmith

Dawn Ching

Senator (ret.)
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Steven T. Emura, MD

Councilmember
Carol Fukunaga

Senator
Josh Green, MD

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Nadine Tenn Salle, MD

Deane Salter

Joshua A. Wisch

Date: February 13, 2018

To: The Honorable Scott Nishimoto, Chair
The Honorable Joy San Buenaventura, Vice Chair
House Committee on Judiciary

From: Justin Murakami, Policy Research Associate
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Strong Support of H.B. 2139 H.D. 1
Relating to Discrimination in Education

Good afternoon Chair Nishimoto, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) strongly supports H.B. 2139 H.D. 1.

As noted in Section 1 of the bill, the intent of this measure is to extend the protections of the federal Patsy Mink Equal Opportunity in Education Act, also known as Title IX of the Education Amendments of 1972 (Title IX), to education program and activity recipients of state funds.

National and local surveys of educational institutions receiving public funds support that such protections are badly needed. In one study conducted by the American Association of University Women, it was found that sexual harassment is a part of everyday life in middle and high schools, with 48% of students surveyed reporting that they experienced some form of sexual harassment during the school year (56% of female students and 40% of male students). In Hawai'i, the University of Hawai'i System recently reported its Climate Survey Report, which revealed that many students experienced harassment and gender violence on campus, and have come to expect that it will be a part of their school experience.

Unfortunately, over the past year, the current presidential administration and members of its cabinet have worked to dismantle or weaken many of the protections against sex-based discrimination in federally funded education programs previously afforded under Title IX. This includes reversing the interpretation of 'sex' to exclude sexual orientation and gender identity and expression, reducing protections for LGBTQ individuals. Moreover, the US Department of Education, under the current administration, rescinded guidance on the investigation of campus incidents of gender-based violence, including sexual assault, weakening systems for holding offenders accountable and providing victims relief.

Passage of H.B. 2139 H.D. 1 would be a powerful affirmation that the State of Hawai'i is aligned with the historical objectives of Title IX to reject sex

discrimination and all forms of gender-based harassment and violence in education programs and activities that receive public funding.

HB-2139-HD-1

Submitted on: 2/12/2018 12:05:53 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaylee Noborikawa	Individual	Support	No

Comments:

HB-2139-HD-1

Submitted on: 2/12/2018 12:20:47 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacey Moniz	Hawaii State Coalition Against Domestic Violence	Support	No

Comments:

The Hawaii State Coalition Against Domestic Violence offers **STRONG SUPPORT** for HB2139 which will extend protections against gender discrimination in schools across the state. Mahalo.

HB-2139-HD-1

Submitted on: 2/12/2018 12:37:04 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charles F Ah Nee Bahn	Individual	Support	No

Comments:

HB-2139-HD-1

Submitted on: 2/12/2018 1:01:32 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Kapua	Individual	Support	No

Comments:

I am in support of this bill as an effort in protecting the rights of Lesbian, Gay, Bisexual, and Transexual individuals and students as they are highly disenfranchised because of discrimination and harrassment in schools and society. Please protect our women, girls, and LGBT individuals by pushing this bill forward.

HB-2139-HD-1

Submitted on: 2/12/2018 1:16:57 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
maddalynn ashton	Individual	Support	No

Comments:

I am in full support of HB 2139 and it's protections for Lesbian, Gay, Bisexual, and Transexual students/ individuals based on their gender/ sex within educational programs and activities that receive state and financial assistance. These state protections are important for Hawaii to enforce as an example of the amount of love and aloha we have for all people.

HB-2139-HD-1

Submitted on: 2/12/2018 1:51:36 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee	Support	No

Comments:

LATE

February 13, 2018

To: Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

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

Re: **H.B. 2139, HD1– Relating to Discrimination in Education**
Hawaii State Capitol, Room 325, February 13, 2018, 2:00 PM

On behalf of Hawaii Children's Action Network (HCAN), we are writing in STRONG SUPPORT of H.B. 2139, HD 1– Relating to Discrimination in Education.

H.B. 2139 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. 2139 would help guarantee that regardless of federal action, Hawaii's students remain protected.

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

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

LATE

HB-2139-HD-1

Submitted on: 2/12/2018 7:21:48 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

LATE

HB-2139-HD-1

Submitted on: 2/12/2018 7:42:27 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Rocca	Individual	Support	No

Comments:

I strongly support this measure.

LATE

HB-2139-HD-1

Submitted on: 2/12/2018 8:05:39 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Taylor	Hawaii LGBT Legal Association	Support	No

Comments:

LATE

HB-2139-HD-1

Submitted on: 2/12/2018 9:18:49 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Garlock	Individual	Support	No

Comments:



February 13, 2018

Representative Scott Nishimoto, Chair
House Committee on Judiciary



Re: H.B. 2139, H.D.1 Relating to Discrimination in Education

Hearing: Tuesday, February 13, 2018, 2:00 pm, Room 325

Dear Chair Nishimoto and Members of the Committee on Judiciary:

Hawaii Women Lawyers submits testimony in **strong support** of H.B. 2139, H.D.1, which amends the Hawaii statute that prohibits discrimination by state agencies or any program or activity receiving state financial assistance from discriminating on the basis of 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.

Hawaii Women Lawyers supports this bill because it will increase access for women to state programs and state funding or assistance. S.B. 2353 creates an analog in state law for the protections articulated in Title IX of the Education Amendments Act of 1972, renamed in 2002 the "Patsy Mink Equal Opportunity in Education Act." This measure will strengthen protections against sexual discrimination in Hawaii, and harmonizes HRS § 368-1.5 with the rest of Hawaii's anti-discrimination laws. It will provide clarity that state agencies and programs that receive funding from the State are prohibited from discriminating on the basis of gender or sexual orientation.

Given the uncertainty of the federal landscape, it is more important than ever that Hawaii act to secure civil rights for its residents. For these reasons, we respectfully request that the Committee pass H.B. 2139, H.D.1.

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

HB-2139-HD-1

Submitted on: 2/13/2018 9:58:42 AM

Testimony for JUD on 2/13/2018 2:00:00 PM



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

Comments:

TESTIMONY IN SUPPORT OF

H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary

February 13, 2018, 2:00 p.m., Conference Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, 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.

H.B. 2139 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. [\[1\]](#) In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH. [\[2\]](#)

Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Tamera Heine

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

[\[2\]](#) *Id.*

LATE

**AMNESTY
INTERNATIONAL** 

Hawaii State Legislature S.B. 2353 and H.B. 2139 pertaining to discrimination in education

Statement by Amnesty International –Hawai'i Chapter #449

The Hawaii state legislature is considering bills (S.B. 2353 and H.B. 2139) 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 welcomes the introduction of S.B. 2353 and H.B. 2139, 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.

LATE

HB-2139-HD-1

Submitted on: 2/13/2018 11:55:54 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

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

Comments:

TESTIMONY IN SUPPORT OF

H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary

February 13, 2018, 2:00 p.m., Conference Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, 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.

H.B. 2139 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. [\[1\]](#) In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH. [\[2\]](#)

Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Cu Ri Lee

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

[\[2\]](#) *Id.*

LATE TESTIMONY

Lindsay Kukona Pakele, M.S. Ed., J.D., Esq.
February 13, 2018

Committee on Judiciary
Rep. Scott Y. Nishimoto, Chair
Rep. Joy A. San Buenaventura, Vice Chair

Hearing: Tuesday, February 13, 2018, 2 p.m.

Testimony in *Strong Support* of H.B. 2139, H.D. 1

My name is Lindsay Kukona Pakele and I am testifying today in *strong support* of H.B. 2139, H.D. 1. I am a former bilingual educator, a Hawaiian activist, attorney and advocate but I stand before you today as a survivor who experienced sexual harassment and gross institutional re-traumatization and re-victimization. Although it pains me to say these words, I am asking that you empower my right to heal with dignity. Passing this bill is a positive step in that life-long process.

I will always say that UH Mānoa's former Gender Equity Specialist and my former advocate Jenn Rose saved not only my life but also my dream of helping others. However, the legal, administrative and policy hooks strengthened her advocacy and served as both enforcement mechanisms and deterrents to further discriminatory action. Title IX and other internal UH policies and procedures were essential to my case and strengthened Jenn's ability to advocate for me.

For survivors already reeling from the discriminatory act, having sound legal frameworks that allow our advocates to defend our cases is essential to preventing further administrative harm that can occur when the institutions that are designed to protect us not only fail to do so, but add to the trauma with their insensitivity, incompetence and refusal to think of us survivors as people in trauma who have already suffered enough.

My ask is simple. Pass this bill and be the shield so that us survivors may win the life-long fight for healing and dignity. Help us so that one discriminatory act doesn't turn into many. My voice is one of many. Almost 6 years after the incident and almost 4 years after a "resolution" of sorts, my case still brings me to tears because that was the worst I ever felt about myself even though ***I DID NOTHING WRONG*** other than be a woman in the world that has decided I am not entitled to full humanity.

You can't change what my perpetrator did and what my educational institution failed to do but you can make it better for future survivors whose lives and dreams will depend on it. Until the world catches up and treats women with the dignity we deserve, we need the law and administrative bodies to be our shields and to support the tremendous work of our champion advocates like Jenn Rose.

If my words do not move you, look around this room, look at your family, look at your friends, look at your colleagues, even look at strangers on the street. There are survivors everywhere. Be part of the solution that helps us heal with dignity and live the lives we were meant to by passing this bill. I need you, we need you and future generations will need you as well.

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, HD1, 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.

H.B. 2139 is urgently needed to protect equality in our education system. 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.

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

Dana Ciacci

Aloha Chair Nishimoto,

Please consider this message as my formal testimony in support of HB2139, the proposed state analog to Title IX which will be heard before you committee today. The recent UH Climate Survey report, as well as local #metoo organizing, has made clear the persistent and pervasive nature of sex discrimination in Hawai'i. Please pass this measure to codify civil rights protections that have been undermined by the current federal administration.

Sincerely,

Khara Jabola

Aloha,

I apologize for the late testimony. Today, Monday, February 12, the US Department of Education announced that it will be rejecting all complaints alleging discrimination against transgender students involving bathroom use. This is one of many reasons why I strongly urge your committee to pass HB2139.

Sincerely,

Mykie E. Menor Ozoa, J.D.

TESTIMONY IN SUPPORT OF
H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary
February 13, 2018, 2:00 p.m., Conference Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, 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.

As a student, teacher, artist, and activist, I believe that we need to act now to secure the rights of the youth to a life free of harassment and discrimination. As an art teacher at Home Maluhia juvenile detention center, I am particularly aware of how sexual abuse deeply impacts youth and experiences of abuse may lead to higher rates of incarceration, particularly women. We must ensure their protection in the education system as well as within the criminal justice system, from any and all forms of discrimination based on gender or sexual orientation.

H.B. 2139 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.

Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Rebecca Maria Goldschmidt

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

--



rebecca goldschmidt

photography, etc.

rrebecca.com

Aloha,

I am Yvonne Mahelona of Kapolei, HI. I support and urge you and your committee to pass HB2139.

Mahalo,

Yvonne Mahelona

Notary Public - National Signing Agent

TESTIMONY IN SUPPORT OF
H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary
February 13, 2018, 2:00 p.m., Conference Room 325

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, 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.

H.B. 2139 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.

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Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

--

Nanea Lo
Office Manager
Native Hawaiian Student Services
University of Hawai'i at Mānoa

I would like to thank the Committee for the opportunity to testify in SUPPORT of H.B. 2139, HD1, 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.

H.B. 2139 is urgently needed to protect equality in our education system. 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.

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

Amy Perruso

Teacher

Honolulu

Hawaii

TESTIMONY IN SUPPORT OF
H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary
February 13, 2018, 2:00 p.m., Conference Room 325

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H.B. 2139 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.

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Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Piikea N. Kalakau

TESTIMONY IN SUPPORT OF
H.B. 2139 – RELATING TO DISCRIMINATION IN EDUCATION

House Committee on Judiciary
February 13, 2018, 2:00 p.m., Conference Room 325

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Accordingly, I SUPPORT H.B. 2139. I respectfully urge your Committee to PASS this important bill. Thank you for the opportunity to provide testimony.

Sincerely,

Steven Urrutia
Teacher, Waianae High School
Stevenurrutia24@gmail.com

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.*