
HOUSE CONCURRENT RESOLUTION

REQUESTING THAT THE HAWAII STATE DEPARTMENT OF EDUCATION REPORT TO THE LEGISLATURE ON ITS COMPLIANCE WITH THE PATSY MINK EQUAL OPPORTUNITY IN EDUCATION ACT AND THE RESOLUTION AGREEMENT BETWEEN THE HAWAII STATE DEPARTMENT OF EDUCATION AND THE UNITED STATES DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS DATED DECEMBER 20, 2017.

1 WHEREAS, Title IX of the federal Education Amendments of
2 1972, renamed in 2002 as the Patsy T. Mink Equal Opportunity in
3 Education Act in honor of its principal author, Patsy Takemoto
4 Mink, former Congresswoman from Hawaii, states that "No person
5 in the United States shall, on the basis of sex, be excluded
6 from participation in, be denied the benefits of, or be
7 subjected to discrimination under any education program or
8 activity receiving Federal financial assistance..."; and
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10 WHEREAS, according to the United States Department of
11 Education Office for Civil Rights, which is responsible for
12 enforcing Title IX, the Hawaii State Department of Education is
13 out of compliance with Title IX; and
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15 WHEREAS, specifically, the United States Office for Civil
16 Rights, in a January 19, 2018, letter to the Hawaii State
17 Department of Education, found that the department was in
18 violation of the following Title IX requirements:
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- 20 (1) Designating a coordinator to carry out Title IX
21 responsibilities and providing notice of the
22 coordinator to students and employees;
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24 (2) Developing and disseminating a notice of
25 nondiscrimination; and
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1 (3) Providing appropriate grievance procedures to address
2 complaints; and
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4 WHEREAS, participation in after-school sports enhances
5 girls' leadership skills and boosts their success in academic
6 and collegiate achievement, making them more likely to graduate
7 from high school and score higher on standardized tests; and
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9 WHEREAS, eight of the twenty-three high schools on Oahu
10 lack separate athletic locker facilities for girls, even though
11 they have athletic locker facilities for boys, including
12 Campbell High School, the largest public school in the State
13 with 3,200 students; and
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15 WHEREAS, two out of the ten high schools on Hawaii Island,
16 two of the five high schools on Maui, and one of the three high
17 schools on Kauai also do not have separate athletic locker
18 facilities for girls, even though they have athletic locker
19 facilities for boys; and
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21 WHEREAS, many girls throughout the State must participate
22 in public school sports using inferior sports facilities and
23 without adequate drinking water or restrooms nearby; and
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25 WHEREAS, the Hawaii State Department of Education entered
26 into a Resolution Agreement with the United States Department of
27 Education Office for Civil Rights, dated December 20, 2017; and
28

29 WHEREAS, in the Resolution Agreement, the Hawaii State
30 Department of Education agreed to take multiple steps and
31 actions to come into compliance with Title IX, including
32 committing to various reporting requirements to the United
33 States Department of Education Office for Civil Rights; now,
34 therefore,
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36 BE IT RESOLVED by the House of Representatives of the
37 Twenty-ninth Legislature of the State of Hawaii, Regular Session
38 of 2018, the Senate concurring, that no later than twenty days
39 prior to the convening of each Regular Session, beginning with
40 the Regular Session of 2019, the Department of Education is
41 requested to provide a report to the Legislature detailing its
42 actions to comply with Title IX; and



H.C.R. NO. 198

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BE IT FURTHER RESOLVED that the Department of Education's report to the Legislature include, but not be limited to, documentation of:

- (1) All actions taken by the Department of Education to comply with Title IX pursuant to the Resolution Agreement;
- (2) All actions taken by the Department of Education to comply with Title IX with regard to all athletic facilities, including but not limited to fields, locker rooms, and transportation; and
- (3) All requests for appropriations, positions, and any proposed legislation to comply with the requirements of Title IX; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor, the Chairperson of the Board of Education, and the Superintendent of Education.

OFFERED BY: Nelson A. Belletti

Maryjean
Ken Br
Lyn DeCorte
Cheryl K. ...
Brend Kohan
Carol ...

Linda Schryer
[Signature]
[Signature]
Nadine K. ...
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L. R. S
C. ...



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

Date: 03/16/2018
Time: 02:10 PM
Location: 309
Committee: House Education

Department: Education

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

Title of Resolution: HCR 198 REQUESTING THAT THE HAWAII STATE DEPARTMENT OF EDUCATION REPORT TO THE LEGISLATURE ON ITS COMPLIANCE WITH THE PATSY MINK EQUAL OPPORTUNITY IN EDUCATION ACT AND THE RESOLUTION AGREEMENT BETWEEN THE HAWAII STATE DEPARTMENT OF EDUCATION AND THE UNITED STATES DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS DATED DECEMBER 20, 2017.

Purpose of Resolution:

Department's Position:

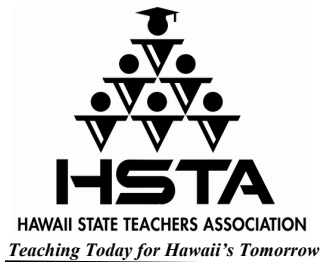
The Department of Education (Department) strongly supports HCR 198/HR169 which requests the Department to provide annual reports to the Legislature on actions taken to comply with the Patsy T. Mink Equal Opportunity in Education Act (Title IX).

The Department is deeply committed to Title IX and the tenets that it upholds. The Department will oversee the schools in their efforts to comply with Title IX, including equitable use of athletic facilities and resources, as well as making sure that the terms contained in the Resolution Agreement with the United States Department of Education, Office for Civil Rights (US DOE OCR) are met.

The Department appreciates and understands the Legislature's difficult job of balancing the needs of all State Departments to comply with federal requirements. It is extremely helpful that this resolution provides the Department with the concerns of the Legislature that the Department will address in its report. The Department looks forward to working with the Legislature in determining the funding needs of the Department to come into compliance with Title IX.

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

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



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

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
EDUCATION

RE: HCR 198/HR 169 – REQUESTING THAT THE HAWAII STATE DEPARTMENT OF EDUCATION REPORT TO THE LEGISLATURE ON ITS COMPLIANCE WITH THE PATSY MINK EQUAL OPPORTUNITY IN EDUCATION ACT AND THE RESOLUTION AGREEMENT BETWEEN THE HAWAII STATE DEPARTMENT OF EDUCATION AND THE UNITED STATES DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS DATED DECEMBER 20, 2017

FRIDAY, MARCH 16, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson and Members of the Committee:

The Hawaii State Teachers Association **supports HCR 198/HR 169**, requesting that the Hawai'i State Department of Education report to the Legislature on its compliance with the Patsy Mink Equal Opportunity in Education Act and the resolution agreement between the Hawai'i State Department of Education and the United States Department of Education Office for Civil Rights dated December 20, 2017.

On February 9th, the American Civil Liberties Union sent a demand letter to the HDOE inquiring about the department's plans to improve gender equity for female athletes. Currently, at some schools, female athletes are relegated to second-class status. Campbell High School, for example, has the highest student enrollment in the state, but lacks a girls' locker room.

In response, the department noted that projects to improve gender equity were underway at two schools and planned for three additional schools, with male and female athletes sharing facilities at six schools. DOE officials also noted examples of

schools that make locker rooms located inside gymnasiums available to female athletes, though such facilities are often unavailable to athletes participating in after school sports. According to multiple reports performed by *Civil Beat*, “Civil Beat spoke with female athletes and school staff members at Campbell who said gym locker rooms were often locked and closed off to students during after-school hours. Female softball and track athletes at the school described having to change in empty classrooms, outside on the bleachers, and running off-campus to use the restroom.”

Civil Beat further reported that at least one-third of the high schools on O’ahu and Kaua’i offer athletic locker rooms for males, but not for females. According to the ACLU, 14 schools are experiencing this kind of gender inequity. Clearly, if true, this kind of discrimination toward non-male students is illegal and our state must provide the funds necessary to bring our school system into full Title IX compliance.

To advance gender equity for our keiki, the Hawaii State Teachers Association asks your committee to **support** this bill.

HCR-198

Submitted on: 3/14/2018 3:37:09 PM

Testimony for EDN on 3/16/2018 2:10:00 PM

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

Comments:

This bill is not strong enough. NOT only should the DOE have to report but they need to show to you that they are in compliance at all schools and for all children.. which we KNOW they are not. How does this happen? THERE is no excuse for non-compliance but lately it seems that the DOE has determined that they are above the law? The DOE should not be able to send out one of their forms asking "what do you do at your school?" or rely on their CAS who often do not know what is happening in actual schools either. We are Hawai'i, it is imperative that we lead on taking care of each other.

Retired DOE Educator

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

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

Executive Director
Khara Jabola-Carolus

Email: kjabola-carolus@dhs.hawaii.gov

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March 16, 2018

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

From: Khara Jabola-Carolus
Executive Director
Hawai'i State Commission on the Status of Women

Re: Testimony in Support, HCR198

Thank you for this opportunity to testify in strong support of HCR198, which requests that the Hawai'i State Department of Education provide an annual report to the Legislature on its compliance with Title IX, renamed the "Patsy Takemoto Mink Equal Opportunity in Education Act," the federal law that prohibits discrimination on the basis of sex in the administration of any education program receiving federal financial assistance. Additionally, Title IX aims to prevent sexual harassment, sexual assault, discrimination against pregnant and parenting students, and the use of stereotypes, while attempting to eliminate other barriers that may prevent a person's access to a particular field of study or career. This law has been in place for over 40 years, yet hundreds of departments of education have been investigated for Title IX compliance, including our own.

Federal review recently revealed that our DOE is falling short on compliance. While DOE has taken proactive steps to fulfill its obligation under Title IX through systemic changes to procedures and organization structure, full compliance is not "just around the river bend." Our community deserves a more transparent process to ensure Hawai'i's education programs receiving federal financial assistance are not perpetuating sex discrimination.

Title IX has been instrumental in increasing educational opportunities for women and girls and fostering educational equality between men and women. Increased opportunity starts from a young age, and all young men and women should know they deserve an education free from hostility or discrimination.

The Commission therefore supports HCR198 and urges the Committee to pass this important measure.

Sincerely,

Khara Jabola-Carolus

LATE



Committee: House Committee on Education
Hearing Date/Time: Friday March 16, 2018, 2:10 p.m.
Place: Conference Room 309
Re: *Testimony of the ACLU of Hawai'i in Support of H.C.R. 198,
Requesting Title IX Compliance Report from the Department of Education*

Dear Chair Woodson, Vice Chair Kong, and Committee Members:

The American Civil Liberties Union of Hawai'i ("**ACLU of Hawai'i**") writes in **support** of H.C.R. 198, which requests that the Hawai'i Department of Education ("**DOE**") provide an annual report to the Legislature, Governor, Board of Education, and Superintendent of Education describing DOE's actions to comply with Title IX. The report would include documentation of (1) all actions taken to comply with the December 20, 2017, resolution agreement between DOE and the U.S. Department of Education, Office of Civil Rights ("**OCR**"), (2) all actions taken to comply with Title IX with regard to all athletic facilities, including fields, locker rooms, and transportation, and (3) all requests for appropriations, positions, and any proposed legislation to comply with Title IX.

On February 9, 2018, after the Honolulu Civil Beat reported that many of DOE's high schools do not have separate athletic locker facilities for girls—even though those same schools have such facilities for boys—the ACLU of Hawai'i sent a letter to DOE demanding immediate action both to cease this discrimination and to rectify existing gender inequities in Hawai'i schools. Specifically, the ACLU of Hawai'i demanded that, by March 12, 2018, the DOE respond to the letter with a plan to concretely address the glaring inequality between girls' and boys' athletic facilities in DOE schools. On March 12, 2018, we received the attached letter from DOE, which unfortunately does not lay out any such plan. The ACLU of Hawai'i continues to be in conversations with DOE with the aim of promptly reaching a resolution that helps achieve permanent gender equity in Hawai'i schools.

This is not the first time the DOE has faced allegations of Title IX violations. In 2010, the ACLU of Hawai'i sued the DOE and the County of Maui on behalf of three female students who were enrolled in DOE schools and wished to participate fully in the DOE's softball program. The lawsuit alleged, among other things, that athletes in Baldwin High School "are being and have been denied equal and adequate access to athletic facilities made available" to "male student athletes," and that such denial was "because of their gender." In that lawsuit, U.S. District Court Judge David Ezra, in an extraordinary move, ruled directly from the bench, noting "without reservation" that there was a "large disparity" in the boys' and girls' athletic facilities at Baldwin High, and that the current treatment of the Baldwin High School girls' softball team was a "very clear" violation "on its face" of Title IX and the Fourteenth Amendment to the U.S. Constitution. Based on recent developments, including Honolulu Civil Beat's article, DOE's resolution agreement with OCR, the ACLU's interviews of students and parents, and DOE's March 12, 2018, response letter, it is clear that gender inequity in Hawai'i schools runs deep and the gap is far from being closed.

Consequently, the ACLU of Hawai'i supports H.C.R. 198, which would bring additional transparency and oversight over DOE's Title IX compliance efforts. We hope, however, that the Legislature will not stop at a resolution, but will also take any and all necessary steps, including making appropriations, to bring Hawai'i schools into compliance with the Patsy T. Mink Equal Opportunity in Education Act, finally, 45 years after its passage.

American Civil Liberties Union of Hawai'i
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www.acluhawaii.org

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.

HCR-198

Submitted on: 3/15/2018 7:52:54 PM

Testimony for EDN on 3/16/2018 2:10:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Monk	Individual	Support	No

Comments:

LATE

HCR-198

Submitted on: 3/15/2018 9:08:58 PM

Testimony for EDN on 3/16/2018 2:10:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments:

Aloha Chair Woodson, Vice Chair Kong and members,

The Hawaii Women's Coalition is in strong support of this measure. We have been following DOE's policies on Title IX issues such as bullying, sex harrassament, sex assault, discrimination against girls in sports, discrimination against LGBT youth, etc. for decades. While we have found that in many cases, good policies exist on paper, we have ample evidence of a lack of consistent implementation and enforcement. We therefore deem this measure prudent and necessary.

Mahalo,

Ann S. Freed

Co-Chair, Hawaii Women's Coalition