



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

Date: 04/04/2018
Time: 02:30 PM
Location: 325
Committee: House Judiciary

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.

HCR-198

Submitted on: 4/2/2018 4:54:07 PM

Testimony for JUD on 4/4/2018 2:30:00 PM

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

Comments:

HCR-198

Submitted on: 4/2/2018 5:09:45 PM

Testimony for JUD on 4/4/2018 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

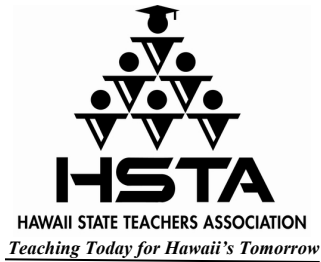
HCR-198

Submitted on: 4/2/2018 9:17:15 PM

Testimony for JUD on 4/4/2018 2:30:00 PM

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

Comments:



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: 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

WEDNESDAY, APRIL 4, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Nishimoto 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: 4/3/2018 1:06:43 PM

Testimony for JUD on 4/4/2018 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

HAWAI`I
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

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

Executive Director
Khara Jabola-Carolus

Email: kjabola-carolus@dhs.hawaii.gov

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

April 3, 2018

To: Rep. Nishimoto, Chair
Rep. San Buenaventura, Vice Chair
Honorable Members of the H. Committee on Judiciary

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

Re: Testimony in Support, HCR 198

LATE

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 45 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

HCR-198

Submitted on: 4/3/2018 3:10:13 PM

Testimony for JUD on 4/4/2018 2:30:00 PM

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

Comments:



COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

DATE: Wednesday, April 4, 2018

TIME 2:30 P.M.

PLACE: Conference Room 325

STRONG SUPPORT FOR HCR198

Aloha Chair Nishimoto, Vice Chair San Buenaventura and members,

The Coalition is in **strong support** of this resolution to hold the State Department of Education (DOE) accountable for the implementation and enforcement of Title IX or the Patsy T. Mink Act.

We have read one sad news story after another of sex harassment, sex assault and bullying in our public schools. They have been failing our children for far too long. Consider this recent case. After a student alleged she had been sexually assaulted by a coach Waipahu High School officials didn't call police and instead concluded there was no wrongdoing after an internal investigation.

After the student and her father went to the police themselves, the Waipahu High coach and teacher was charged with three counts of third-degree sexual assault. In flagrant disregard for the student, he was allowed to return to work after his arrest, and was only placed on leave after media inquiries.

Even more disgusting is the case at the Hawaii School for the Deaf and the Blind wherein a group of students sexually assaulted younger students, and school DOE officials looked the other way.

The DOE needs to clean up it's own act as well as address the legal and moral void that the Trump administration has left with it's 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, issues that the DOE is also not addressing.

As a 2nd wave feminist who has spent the bulk of her life fighting to achieve equity and safety for women and girls, I fervently request that you take this small step to protect Hawaii's students from predators, who are protected from consequence by the current climate of hate-filled politics sweeping our country. #Timesup

Mahalo for the opportunity to testify,

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

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

LATE

HCR-198

Submitted on: 4/3/2018 9:56:10 PM

Testimony for JUD on 4/4/2018 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

IN STRONG SUPPORT FOR THIS BILL.



LATE

Committee: House Committee on Judiciary
Hearing Date/Time: Wednesday April 4, 2018, 2:30 p.m.
Place: Conference Room 325
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 Nishimoto, Vice Chair San Buenaventura, 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 that 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
P.O. Box 3410
Honolulu, Hawai'i 96801
T: (808) 522-5900
F: (808) 522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Thank you for the opportunity to testify.

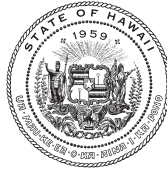
Sincerely,



Mateo Caballero
Legal Director
ACLU of Hawai'i

Enclosure

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.



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

OFFICE OF THE SUPERINTENDENT

March 12, 2018

Via email: mcaballero@acluhawaii.org
and U.S. Mail

Mr. Mateo Caballero
Legal Director
American Civil Liberties Union Foundation - Hawaii
P.O. Box 3410
Honolulu, HI 96801

Re: February 9, 2018, Letter

Dear Mr. Caballero:

This correspondence acknowledges receipt of the American Civil Liberties Union Foundation - Hawaii (ACLU) letter dated February 9, 2018, related to its allegations of unequal opportunities and access to athletic programs and facilities for female athletes in Hawaii State Department of Education (HIDOE) schools.

The HIDOE is committed to ensuring gender equity for students in our athletic programs and facilities usage. In 2016, the HIDOE commissioned a study to assess our athletic facilities, and based on this report continued to lobby the State Legislature for and ensure funding to invest in the planning, design, and building of athletic facilities extending beyond locker rooms to sports stadiums and sports fields.¹

¹ The 2016 Statewide Athletic Plan referenced in your letter, formally known as the "Statewide Athletic Plan Master Planning and School Assessment Job No. Q61002-12 Master Plan for Athletic Facilities," was commissioned to assess the existing conditions of the high school physical education (PE) and athletic facilities throughout the State. The purpose of this assessment was to provide guidance in maintaining the existing facilities and for new and/or replacement facilities. "Facilities," as used in the Master Plan refers to PE locker rooms, male and female athletic air riflery, tennis courts, weight rooms, a trainer's room, and pool.

High Schools with Athletic Locker Rooms

In the ACLU letter, some high schools were noted as not having “separate athletic locker facilities for girls, even when boys in those same schools do have such access” based on the aforementioned 2016 report. In regards to those schools that were referenced in the ACLU letter, the HIDOE confirms that the following schools listed below do have an athletic locker room for female athletes in the gym:²

- Baldwin High
- Campbell High
- Kahuku High & Intermediate
- Maui High
- Mililani High
- Moanalua High
- Radford High
- Waialua High & Intermediate

In addition, the HIDOE would like to share that:

- Hana High & Elementary - A Varsity locker room is accessible to both female and male athletes.
- Konawaena High - PE locker rooms are used by female and male athletes.
- Pearl City High - A locker room for female athletes is provided in addition to the school’s Physical Education (PE) locker room.

Hawaii’s Investment in Athletic Facilities

Since 2004, the State of Hawaii has appropriated \$41,359,094 to the HIDOE for Title IX Gender Equity projects. To date, \$26,982,003 has been expended to complete twenty-two (22) softball fields and improvements.

Projects Nearing Completion

The HIDOE is expanding facilities for female athletes through its construction of a stand-alone locker room for female athletes at Kahuku High & Intermediate (KHIS) and Kalani High (KHS). The new female locker room facilities at KHIS and KHS are slated for completion by Fall of 2018. The total current expenses on these two projects to date is \$13,482,946. Upon completion of these projects, HIDOE will account for these expenses as part of the above referenced total amount of Hawaii’s Investment in Athletic Facilities “expended” to date.

² There is a high participation of female athletes participating in sports that utilize the gym, such as volleyball and basketball.

Upcoming Projects

Upcoming HIDOE Title IX Gender Equity projects include:

- Waiakea High - Softball field improvement project to start in May 2018.
- Kauai High - Anticipated project start date is during the 2018-2019 school year.
- Waialua High & Intermediate - Locker room for female athletes is in the design phase. Project will start during the 2018-2019 school year.
- In addition to the above mentioned projects, additional Title IX projects will be undertaken subject to legislative funding.

Joint Use of Existing Facilities

The following schools utilize existing facilities on an equitable basis between male and female athletes:

- Kahuku High and Intermediate girls' soccer team uses the Varsity locker room during the winter season.
- Roosevelt High girls' soccer uses the locker room during the winter season and the girls' track team utilizes the locker room during the spring season.
- Waimea High has separate male and female athletic locker rooms, but the school also has a portable football locker room that both male and female athletes utilize. Further, gymnasium locker rooms are shared by both male and females athletes and separate toilet facilities exist. Practices are staggered which avoids interference with the use of the facilities.
- Baldwin High, Mililani High and Radford High have football locker rooms available for use by female athletes during the off-season.

Student Voice

Students' perspectives and aspirations are highly valued in our classrooms, schools, and communities, and influence the design of educational programs, learning experiences, and school structure through student choice practices. HIDOE leaders' decisions are informed by student input.

Recently, the HIDOE proactively spoke to three groups of female athletes at Campbell High about their athletic experience. A meeting will be held this week with Campbell High to address the concerns voiced by the students regarding Title IX issues.

The HIDOE remains committed to ensuring equal access to athletic facilities. Our active plans include annual checks on our school athletics facilities and programs to better anticipate project needs. When funding becomes available, the HIDOE will utilize its priority list to assure that school needs are addressed. As the HIDOE conducts its onsite reviews of athletic facilities, programs, and needs, we are committed to a goal of future state-of-the-art facilities for all athletic programs in Hawaii public schools.

Mr. Mateo Caballero
March 12, 2018
Page 4

I appreciate the time you took to meet with me on February 16, 2018, for a meet and greet. As I mentioned in our meeting, I am available to answer any additional question that you may have.

Sincerely,



Dr. Christina M. Kishimoto
Superintendent

CMK:sg

c: Holly T. Shikada, Esq., Supervising Deputy Attorney General