

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

LATE

April 11, 2019

TO: The Honorable Senator Russell E. Ruderman
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director
Maureen Bates, Administrator, Division of Vocational Rehabilitation

SUBJECT: **GM 734 – Submitting for consideration and confirmation to the State Rehabilitation Council, Gubernatorial Nominee, MICHELE KU, for a term to expire 06-30-2021.**

Hearing: Friday, April 12, 2019, 2:45 p.m.
Conference Room 016, State Capitol

The Department of Human Services (DHS) supports the nomination of Ms. Michele Ku to the State Rehabilitation Council (SRC). Ms. Ku is seeking an appointment for her second term on the SRC representing Community Rehabilitation Program Service Providers per section 348-8(a)(4), Hawaii Revised Statutes.

Ms. Ku is the current President and CEO of the Arc of Kona in West Hawaii. At the Arc of Kona, she shares her exceptional leadership and interpersonal skills needed to maintain the essential operations of the agency. Ms. Ku has done a tremendous job of building relationships, implementing and monitoring policies and procedures, as well as maintaining a record of activities between the community and the Arc of Kona's Board of Directors. The Arc of Kona has been a long-time vendor and contractor of DVR services. Ms. Ku was very involved with those contracts in her previous position as Program Director.

Ms. Ku's educational background in Organization Leadership and Business Administration, along with her military training as a mental health counselor, make her a qualified selection to serve as the President of the SRC. Ms. Ku will continue to contribute to the SCR her knowledge, leadership, and skills in the provision of services to those individuals with significant disabilities that will help guide DVR.

Thank you for the opportunity to provide testimony to this committee.

TESTIMONY BEFORE THE SENATE COMMITTEE ON
HUMAN SERVICES

LATE

RE: GM 734 Submitting for consideration and confirmation to the State Rehabilitation Council, Gubernatorial Nominee, MICHELE KU, for a term to expire 06-30-2021.

FRIDAY, APRIL 12, 2019

MITZIE HIGA, LEGISLATIVE CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Ruderman, and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **strongly opposes GM 734** and the consideration and confirmation to the State Rehabilitation Council, Gubernatorial Nominee, MICHELE KU, for a term to expire 06-30-2021.

The State Rehabilitation Council, according to Section 348-8, Hawaii Revised Statutes, shall include “At least one representative of community rehabilitation program service providers,” which is not limited to only those paying subminimum wages in sheltered work settings. There are other candidates for this position that do not pay subminimum wages. The function of the SRC includes evaluating the performance of VR service providers in their work to keep people with disabilities away from places like the Kona Association for Retarded Citizens.

It is widely understood by competent professionals in vocational rehabilitation that this practice of subminimum wage sheltered employment does not help workers improve. Peer-reviewed academic research shows that it damages them and makes them more costly to rehabilitate. It is a stepping stone to nothing. The Workforce Innovation and Opportunities Act, in recognition of this undeniable fact, makes it more difficult than ever before for Vocational Rehabilitation agencies to place people in those job settings. Subminimum wage sheltered employment is the exact opposite of vocational rehabilitation and should never be mixed with it.

Some of the most notorious subminimum-wage sheltered workshops in Hawaii include Goodwill, Lanakila Pacific, and the Kona Association for Retarded Citizens.

In January 2018, a former Goodwill Vice President was appointed Administrator of the Division of Vocational Rehabilitation, the agency that is supposed to be empowering workers with disabilities toward competitive, integrated employment. Shortly after that appointment, in April of 2018, a Hawaii News Now Story reported that the Division of Vocational Rehabilitation would begin contracting with Lanakila Pacific to run its summer programs for transition-age youth to help introduce them to employment. It is the duty of the State Rehabilitation Council to police conflicts of interest like this.

We saw similar conflicts of interest when the Executive Director of Lanakila Pacific was also the Chair of the Workforce Development Council. The Workforce Development Council should have been raising questions about the exploitation of workers with disabilities at Lanakila Pacific, but its Chair was also the Executive Director of Lanakila Pacific. This kind of arrangement simply does not work.

The Kona Association for Retarded Citizens, of which Michelle Ku is the President and CEO, appears on the list of entities holding Special Wage Certificates from the US Department of Labor, allowing them to pay subminimum wages to workers with disabilities. An effective leader in the empowerment of people with disabilities would never allow her agency to retain the word “Retarded” in its name, since it is basically the N-word for people with disabilities. Even if they are commonly seen using the acronym “ARC,” it is familiar to people with disabilities, and they know what the R means.

The Democratic Party of Hawaii has been advocating ending the practice of paying of subminimum wages to workers with disabilities based upon the requests made by hundreds of individuals and organizations of people with disabilities, especially the National Federation of the Blind of Hawaii.

We cannot have subminimum-wage certificate-holding entities or sheltered workshops represented on the State Rehabilitation Council. The Kona Association for Retarded Citizens is both, so it should not be represented on this volunteer advisory council. This is not a personal attack on Ms. Ku. It is simply the recognition that appointing her to the State Rehabilitation Council would be a terrible conflict of interest.

As a result, the Democratic Party Labor Caucus **strongly opposes GM 734.**



LATE

To: Honorable Chair Russell E. Ruderman
Honorable Vice Chair Karl Rhoads
Members of the Senate Committee on Human Services

RE: **Testimony in OPPOSITION of GM734: Michele Ku – State Rehabilitation Council**

Aloha Chair Ruderman, Vice Chair Rhoads, and Members of the Committee:

The Health Committee of the Democratic Party of Hawai'i is opposed to the nomination of Michele Ku to the State Rehabilitation Council. Our opposition stems from concern regarding the conflict of interest that is presented in this nomination and see the need to protect the purpose of the Hawai'i State Rehabilitation Council.

The Hawai'i State Rehabilitation Council is an advisory body that helps with the oversight and policymaking for the Division of Vocational Rehabilitation. Under federal mandates, the Division of Vocational Rehabilitation mission is to prepare people with disabilities to achieve competitive, integrated employment. More disabled workers end up in subminimum-wage sheltered workshops when the vocational rehabilitation system fails to adequately support its mission.

Michele Ku serves as the President and CEO of the ARC of Kona. This organization has a special wage certificate from the US Department of Labor which authorizes the "Kona Association for Retarded Citizens" in accordance with section 14(c) of the Fair Labor Standards Act, to exploit workers with disabilities paying wages well below the federal minimum wage.

With Ms. Ku on the State Rehabilitation Council, she will have a direct influence on the VR programs of Hawai'i; and with her position as CEO of the ARC, she will be directly benefiting from the decisions made by the Council. This presents a very concerning conflict of interest.

The Health Committee of the Democratic Party of Hawai'i respectfully opposes this nomination. Subminimum wage sheltered workshops should no longer exist, and their proprietors should definitely not have influence over the vocational rehabilitation programs in the Aloha State.

Mahalo,

Marion Poirier
Vice Chair, Health Committee,
Democratic Party of Hawai'i

April 11, 2019

Senator Russell E. Ruderman, Chair
Committee on Human Services
State Capitol, Room 016
State of Hawaii
415 S. Beretania St.
Honolulu, HI 96813

Re: GM 734: In Support of the Confirmation of MICHELE KU to the State Rehabilitation Council, for a term to expire 6/30/2021

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


Thank you for the opportunity to express my strong support of Governor Ige's nomination of Michele Ku to the State Rehabilitation Council.

I have had the privilege and honor of working with Michele over the past several years on the State Rehabilitation Council (SRC) executive committee. Michele has done an exceptional job as Chairwoman of the SRC. Her commitment and dedication needs to be warranted as she has kept the council accountable in their decision making and directed in accomplishing and meeting their goals.

Michele is a strong, effective, visionary leader with integrity who has garnered the admiration of many through her selfless service to others. For the past fourteen years, Michele has spent her career working on behalf of persons with disabilities at the Arc of Kona as Director of Programs for the North and East areas of Hawaii Island and currently as the President and CEO. Michele understands the system in which individuals with disabilities need to find services and supports. Her service in the disabilities community has kept her abreast on disability needs and solutions. She is well known in the disabilities community and respected by her peers.

Thank you for this opportunity to provide a written testimony in strong support of Michele Ku for another term on the State Rehabilitation Council. I believe she is an extraordinary asset to our consumers, State Rehabilitation Council, and the State of Hawaii.

Sincerely,



Jodi Asato
Counselor, KOKUA Program (University of Hawaii at Manoa)

From: [Nate Hix](#)
To: [ruderman1 - Cheryl](#)
Subject: GM734 - Oppose
Date: Friday, April 12, 2019 10:33:00 AM

Just as it would be unwise for a Math tutor to judge whether a student is proficient in math and needs to pay for math tutoring, it is unwise for the President and CEO of a disabled workers organization to judge whether someone is a proficient worker and should work for a disabled workers organization.

The math student should be recommended by their math teacher or another unbiased observer who isn't financially benefiting from recommending tutoring. With Michele Ku as the chair of this council and the President and CEO of Arc of Kona, the incentives are not aligned, and thus the risk of mislabeling a worker or a program is too high.

Even if Michele Ku and the people around her believe that she can serve in this capacity unbiased, the public might not share those feelings. Rather than risk the potential for doubt amongst the public, it would be best to have someone whose finances aren't tied to the result of the Council's assessments.

There are plenty of qualified individuals that would enjoy and thrive in the opportunity to serve in this role, and so we shouldn't recommend or place individuals that might have conflicting interests.

As such, I ask that Michele Ku, and any other individual who might benefit based off the work that is done within the State Rehabilitation Council, not be placed as the chair of this council.

Thank you,

Nate Hix

GM-734

Submitted on: 4/11/2019 2:46:31 PM

Testimony for HMS on 4/12/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Tada	Individual	Oppose	Yes

Comments:

I strongly oppose the nomination of the President and CEO of a subminimum-wage sheltered workshop (“sweatshop”) to the Hawaii State Rehabilitation Council. These sweatshops have continued to take more and more ground away from us, even when national advocates and policies appear to be taking power away from them. They recently took over our Division of Vocational Rehabilitation by getting a former Goodwill leader installed as the Administrator. Now, I am worried that they want to stack the SRC with their people so that the SRC won’t hold DVR accountable for dumping people into their sweatshops. It reminds me of a coup, no pun intended.

First, I need to discuss the problem with the R-word. The Kona Association for Retarded Citizens oppresses people with disabilities just by having that name. They may occasionally call themselves the ARC of Kona or the Kona ARC or whatever, but their special wage certificate from the US Department of Labor allowing them to pay subminimum wages says, “Kona Association for Retarded Citizens.” The R-word has been used to deny me opportunities and full participation in life for my entire life. I have cerebral palsy, which affects my muscles, not my brain. Nonetheless, people can push me aside using the R-word and all of the negative stereotypes associated with it. We all know that A&B stands for “Alexander and Baldwin,” just like ARC stands for “Association for Retarded Citizens.” The name needs to go, and their practices need to end.

I have testified before this committee already about how I worked in a sweatshop known as Lanakila Pacific. My own experiences have been the opposite of vocational rehabilitation. It is our kuleana to ensure that the keiki with disabilities in the DOE right now do not suffer through the kinds of experiences which I have had in the subminimum-wage sheltered workshops.

When I worked at Lanakila Pacific in the custodial services program, I stripped and waxed floors for \$1.06 per hour. It was backbreaking work, and I did it for 6 hours per day, 5 days per week. I also swept and mopped, vacuumed, and did anything else that a janitor would do. If I did not have a disability, they would not have been allowed to pay me like that, but they did. Part of why these workshops are so dehumanizing is that the bottom-level jobs are specifically set aside for workers with disabilities, and our supervisors were always people without disabilities. As I would be slaving away to strip and wax the floors, the able-bodied person overseeing me had a more comfortable

experience. They were the Luna, and I was the plantation worker. When the public tours would come through our facilities, the supervisors would put on a fake smile and act friendly, talking about how they were helping me. Once the tours left, they would go right back to the old ways. It was breaking my spirit until I finally left.

If any of the agencies or workshops tell you that they're giving us competitive, integrated employment, I urge you to examine how exactly they are justifying that it is competitive, integrated

employment. Sometimes, they can be a little too creative with how they justify something as "competitive, integrated employment." If we were treated equally in the employment setting, we would be given equal opportunities for promotion and advancement, rather than being disqualified from promotion and advancement because of our disability. These programs are federally legal and designed under the Javits Wagner O'Day Act, which was set up with good intentions to help people with disabilities. Unfortunately, JWOD programs have trapped us in segregation, making it harder for us to break free and convince employers to hire us in regular, mainstream jobs.

Here is part of Section 348-8, Hawaii Revised Statutes, which lays out the work of the SRC:

(c) The council, after consulting with the state workforce development council, shall advise the vocational rehabilitation division of the department on eligibility, order of selection, extent, scope, and effectiveness of services provided, and performance of state agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes. The council shall develop, agree to, and review state goals and priorities, advise the vocational rehabilitation division of the department regarding authorized activities, and assist in the preparation of the state plan and amendments to the plan, applications, reports, needs assessment, and evaluations. The council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the performance by the vocational rehabilitation division of the department, vocational rehabilitation services provided by state agencies, and other public and private entities, and employment outcomes achieved by eligible individuals receiving services, including the availability of health and other employment benefits in connection with employment outcomes. The council shall prepare and submit an annual report to the governor on the status of vocational rehabilitation programs within the State and make the report available to the public.

Here is a slight adaptation from a famous speech by 1992 Presidential Candidate Ross Perot:

To those of you in the audience who are business people, pretty simple: If you're paying \$12, \$13, \$14 an hour for factory workers and you can move your factory to Lanakila Pacific, pay a dollar an hour for labor, hire young -- let's assume you've been in business for a long time and you've got a mature work force -- pay a dollar an hour for your labor, have no health care -- that's the most expensive single element in making campaign t-shirts -- have no civil rights controls, no social bystander controls and no retirement, and you don't care about anything but making money, there will be a giant sucking sound going to Lanakila.

So, if the people send me to Washington, the first thing I'll do is study that 2,000-page agreement and make sure it's a two-way street. One last part here -- I decided I was dumb and didn't understand it so I called the Who's Who of the folks who've been around it and I said, "Why won't everybody go to Lanakila?" They say, "It'd be disruptive." I said, "For how long?" I finally got them up from 12 to 15 years. And I said, "well, how does it stop being disruptive?" And that is when their jobs come up from a dollar an hour to six dollars an hour, and ours go down to six dollars an hour, and then

it's leveled again. But in the meantime, you've wrecked the country with these kinds of deals. We've got to cut it out.

The bottom line is that this is nothing personal, but the dual roles of President/CEO of a subminimum-wage sheltered workshop and member of a State Rehabilitation Council should never coexist. Please understand that I mean no harm.

GM-734

Submitted on: 4/11/2019 8:33:53 PM

Testimony for HMS on 4/12/2019 2:45:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Oppose	No

Comments:

This is a huge conflict of interest. This person runs an entity that pays disabled workers a sub minimum wage, and now she would be in charge of labor policy relating to people with disabilities. Please oppose this nomination.

GM-734

Submitted on: 4/11/2019 8:48:08 PM

Testimony for HMS on 4/12/2019 2:45:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Landon Li	Individual	Comments	No

Comments:

You'll notice from her posted resume that she is President and CEO of the Kona Association for Retarded Citizens.

The Kona Association for Retarded Citizens holds a special wage certificate from the US Department of Labor allowing them to pay subminimum wages to workers with disabilities.

"Retarded" is a discriminatory and offensive word, so it is concerning that an agency would keep a relic of old oppression in their name.

Subminimum wage jobs are unfair, discriminatory, and immoral. They do not belong anywhere, much less in the Aloha State.

Since the State Rehabilitation Council helps to sculpt the future of employment for people with disabilities, we want the people on this Council to be those who embody the right path toward the future.

Ms. Ku may be a wonderful person, but her position as President and CEO of a subminimum-wage sheltered workshop is in conflict with the work of the State Rehabilitation Council. The State Rehabilitation Council should be holding the sheltered workshops accountable, and we cannot expect the workshops to blow the whistle on themselves.

If the ARC were to change its name, its programs, and its wage policies, or if she were to leave her position there in favor of one where people with disabilities were treated and paid like normal human beings, then perhaps her candidacy would be less objectionable.

GM-734

Submitted on: 4/11/2019 9:56:46 PM

Testimony for HMS on 4/12/2019 2:45:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
boram shin	Individual	Oppose	No

Comments:

Aloha,

This is a conflict of interest to give this kind of power to a sub minimum wage sheltered workshop. It's nothing personal. Thank you,

-Boram

GM-734

Submitted on: 4/11/2019 10:06:03 PM

Testimony for HMS on 4/12/2019 2:45:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Michael deYcaza	Individual	Oppose	No

Comments:

Dear Sirs/Madams,

It has come to my attention that Ms. Ku owns a business that employs many handicapped workers and thus would benefit financially from policies that tended to depress wages for handicapped workers. Putting her in a position of power over those policies gives an appearance of impropriety .

Best wishes, Michael deYcaza

GM-734

Submitted on: 4/11/2019 10:25:29 PM

Testimony for HMS on 4/12/2019 2:45:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Jun Shin	Individual	Oppose	No

Comments:

As a concerned community member, I am testifying in opposition to the nomination of Ms. Michele Ku. I do not know Ms. Ku, but, I am very worried about the conflict of interest she brings to her position, as she has a prominent role as President and CEO of the Kona Association for Retarded Citizens or the "ARC of Kona". They have special wage certificate, issued in accordance with Section 14(c) of the Fair Labor Standards Act, that authorizes them to have workers with disabilities, but pay them subminimum wages.

As our Division of Vocational Rehabilitation (VR), which the State Rehabilitation Council is a part of states online, the vocational rehabilitation system seeks to allow for individuals with disabilities to, "obtain competitive employment that is aligned with their job skills, interests, and abilities". There is a concern that the interests the nominee brings would bring influences that conflict with VR's purpose as VR is seeking to allow individuals with disabilities to be able to be in a intergrated workplace, doing the work and getting paid the same alongside someone who does not have disabilities.

As someone advocating for economic justice and a strong supporter of raising the minimum wage to a actual living wage, I believe strongly that subminimum wage needs to stop and all of Hawai'i needs to be raised up together so that we can all have a livable future here in these islands we call home. So to allow for the State Rehabilitation Council to be able to fulfill its advisory purpose to the fullest extent, I respectfully ask your committee to oppose this nomination.

Jun Shin

1561 Kanunu St

808-255-6663

junshinbusiness729@gmail.com

**Colleen O'Shea Wallace, MPH, CFLE
P.O. Box 1799, Makawao, HI 96768
808-986-8989/808-268-0286**

April 10, 2019

Aloha Senator Russell Ruderman,

I am writing to strongly oppose the appointment of Michelle Ku, President and CEO of the Kona Association for Retarded Persons, to the Hawaii State Rehabilitation Council. While I have reviewed her resume and note that she appears to be well qualified in her field, the fact that she administers and has worked for many years in a Hawaii agency that employs people at sub-minimum wages disqualifies her in my opinion. Therefore, appointing her to this Council in an influential capacity in program planning and oversight for our state would be a clear conflict of interest as she currently administers and supervises programs which employ people to work below minimum wage.

Having worked in Community Health Development for many years; as well as with the State Planning Council on Developmental Disabilities; and having spearheaded and then coordinated the Maui Disabilities Alliance for many years, I strongly advise finding another qualified nominee for this position on our State Rehabilitation Council; one who works in a better quality program serving persons with disabilities.

Very truly yours,

Colleen O'Shea Wallace, MPH

From: [Brandon Young](#)
To: [HMS Testimony](#)
Subject: Re: testimony
Date: Thursday, April 11, 2019 8:51:57 PM

Dear Sen. Ruderman and other members of the Human Services Committee,

My name is Brandon Young and I am a blind person. I am submitting testimony for the nomination of members to the State Rehabilitation Council (SRC). I am testifying in opposition to the nomination before you of the President of the Kona branch of the Association of Retarded Citizens (ARC). If you did not already know, this organization holds and uses certificates of Section 14C of the Fair Labor Standards Act. This section allows organizations to pay people less than the minimum wage. This organization is receiving federal funds and could most certainly pay their employees a decent wage. I would ask you to question this nominee on this practice during the hearing tomorrow. I would also oppose the appointment of Art Cabinalla to this position as well. Art may be a qualified individual for this position, however, he has not been willing to champion the legislative issues that we have had for the past two years in this session. Unless Art is willing to champion the march for ending sub minimum wage payments for the blind and all others with disabilities, then I would recommend you not appoint him for this position.

Thank you for considering my testimony on this matter.

Brandon Young