



## HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813

Committee: Committee on Judiciary  
Bill Number: H.B. 615 HD 1  
Hearing Date/Time: February 13, 2019, 2:01 p.m.  
Re: Testimony of the Hawai'i State Ethics Commission with  
**COMMENTS ON** H.B. 615 HD 1, Relating to the Board of Education

Dear Chair Lee and Committee Members:

The Hawai'i State Ethics Commission ("Commission") offers the following comments on H.B. 615 HD1, which would add a non-voting member of Bargaining Unit 5 ("BU 5") to the Board of Education.

The Committee may wish to consider how the State Ethics Code's Conflicts of Interests law, Hawai'i Revised Statutes ("HRS") § 84-14(a), may apply to such an individual. The Commission respectfully requests that the Legislature provide additional clarification and guidance on this measure so that the Commission can enforce the Ethics Code as the Legislature intends.

Members of the BOE (and public-school teachers) are considered "employees" for purposes of the State Ethics Code and are subject to the Ethics Code's restrictions. The Conflicts of Interests law, HRS § 84-14(a), reads in pertinent part:

**§84-14 Conflicts of interests.** (a) No employee shall take any official action directly affecting:

- (1) A business or other undertaking in which the employee has a substantial financial interest. . . .

The term "official action" is defined to include any action or inaction that involves the use of discretionary authority, HRS § 84-3, and the term "financial interest" is defined as including the employment interests of the employee. Therefore, the proposed new BU5 member of the BOE may not only have to refrain from voting on items affecting BU5 members' compensation and benefits; the member may also have to recuse her- or himself from participating in any BOE discussion of compensation/benefits for BU5 members.

HRS § 84-14(a) also contains an exception for members of boards and commissions who are required to have certain specialized qualifications:

A person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which the person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

Thus, for example, if a board is mandated to have a member who represents an industry, that person may take action affecting that industry, but is still prohibited from taking action affecting her or his particular employer within the industry.

This exception may be difficult to apply when all public-school teachers – including the proposed BU5 member of the BOE – are employed by the same employer (the Department of Education). As such, the Commission respectfully requests additional clarification from the Legislature regarding the potential conflicts of interests that the BU5 member of the BOE may face.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on H.B. 615 HD 1.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel



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## TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY

RE: HB 615, HD1 - RELATING TO THE BOARD OF EDUCATION

WEDNESDAY, FEBRUARY 13, 2019

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Lee and Members of the Committee:

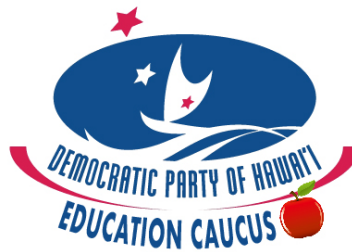
The Hawaii State Teachers Association **strongly supports HB 615, HD1** relating to the Board of Education.

Teacher voice matters. Too often, educational governance decisions are made without the input of the Hawai'i's hardworking teachers, who are responsible for crafting our children's future. Yet, teachers are expected to carry out these decisions, each day, without fail and without being paid the professional salaries earned by their mainland peers.

Already, the Board of Education has nonvoting members representing the military community and the student community. Both members—currently Col. Peter Santa Ana from as the board's military liaison as well as David Texeria, a senior from Kauai High School, as the board's student representative—provide valuable insight into the experience of their constituencies with the public school system. Teachers, too, should be heard on matters ranging from curriculum development to testing to school funding. Policymakers often talk about improving learning conditions at the “classroom level.” No one is better equipped to discuss those conditions than the teachers who are tasked with managing the classroom experience.

The teacher member, of course, would recuse themselves from any conversation regarding contractual or specific personnel issues, just as the military liaison and student excuse themselves. These are standard operating procedures pursuant to Hawaii Revised Statutes.

To empower teacher voice in educational leadership, the Hawaii State Teachers Association asks your committee to **support** this bill.



## **HOUSE BILL 615, HD 1, RELATING TO THE BOARD OF EDUCATION**

FEBRUARY 13, 2019 · HOUSE JUDICIARY  
COMMITTEE · CHAIR REP. CHRIS LEE

**POSITION:** Support.

**RATIONALE:** The Democratic Party of Hawai'i Education Caucus supports HB 615, HD 1, which amends the Board of Education membership by inviting the exclusive representative for bargaining unit (5) (teachers and other personnel of the Department of Education) to appoint a nonvoting public school teacher representative to the Board.

Empowered teachers are excellent educators. Yet, too often, teachers are omitted from educational policymaking. When teachers' voices are silenced, the views of the hardworking educators charged with shaping our children's minds and leading Hawai'i's classrooms are absent from discussions about how policy decisions impact classroom learning.

Already, the BOE hosts a military liaison and a student representative, both of whom are nonvoting members who wield considerable influence in board debates. They are critical thinkers, quick to question departmental initiatives that undermine student achievement and steadfast in their support of better schools. Likewise, teachers should have the opportunity to have a representative articulate their views on, for example, student assessment or school funding, since they are ultimately responsible for directly implementing the board's decisions and know best what's needed to strengthen their classroom experiences and inspire their children to succeed.

**HB-615-HD-1**

Submitted on: 2/12/2019 1:42:51 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

**HB-615-HD-1**

Submitted on: 2/11/2019 7:41:58 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch	Individual	Support	No

Comments:

**HB-615-HD-1**

Submitted on: 2/11/2019 11:16:52 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tadia Rice	Individual	Support	No

Comments:

**HB-615-HD-1**

Submitted on: 2/12/2019 10:20:07 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cheryl	Individual	Support	No

Comments:



**HB-615-HD-1**

Submitted on: 2/12/2019 1:11:08 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Dursin	Individual	Support	No

Comments:

I strongly support HB615. The views of teachers should be considered in all school board deliberations. Not having a teacher at the table in every meeting makes me wonder how well the board's thinking is communicated to teachers and vice versa. Administration and parental concerns are important, but in the end, it is teachers who must implement most board decisions. This bill does not involve the allocation of resources, only the recognition that teachers are a significant voice in any board decision-making.

Thank you for considering my remarks.

Susan Dursin, Captain Cook

**HB-615-HD-1**

Submitted on: 2/12/2019 4:20:01 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB615. When Neil Abercrombie took office, he appointed no teachers on his Board of Education, just businesspeople. We must prevent this from happening again.

Thank you for the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei