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## HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Finance  
Bill Number: H.B. 615 HD 2  
Hearing Date/Time: February 26, 2019, 12:30 p.m.  
Re: Testimony of the Hawai'i State Ethics Commission with  
**COMMENTS ON** H.B. 615 HD 2, Relating to the Board of Education

Dear Chair Luke and Committee Members:

The Hawai'i State Ethics Commission ("Commission") offers the following comments on H.B. 615 HD2, 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. 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.<sup>1</sup>

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<sup>1</sup> The Conflicts of Interests law contains a provision that allows greater flexibility 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." The Commission has not made any findings or conclusions regarding how the Ethics Code might apply to a BU5 member of the BOE. Nevertheless, the BU5 member may still be required to recuse her- or himself from matters involving teachers'

The Committee on Judiciary amended H.B. 615 HD 2 to clarify that the Conflicts of Interests law applies to the non-voting member of BU5. The Commission believes this amendment is appropriate and helps ensure that the highest level of ethical conduct in state government.<sup>2</sup>

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on H.B. 615 HD 2.

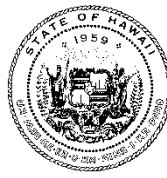
Very truly yours,

Kee Campbell  
Staff Attorney

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compensation and benefits notwithstanding the "particular qualifications" exception in HRS § 84-14(a).

<sup>2</sup> The Committee may wish to consider amending this language to make clear that the entirety of the Ethics Code – and not just the Conflicts of Interests law – applies to the BU5 member on the BOE. However, this additional language is not strictly necessary, insofar as the Ethics Code will apply to the BU5 member of the BOE by operation of HRS §§ 84-2 and 84-3.



**STATE OF HAWAII**  
**HAWAII TEACHER STANDARDS BOARD**  
650 IWILEI ROAD, SUITE 268  
HONOLULU, HAWAII 96817

February 25, 2019

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE**

**PERSON TESTIFYING:** Lynn Hammonds, for the Hawaii Teacher Standards Board

**DATE:** February 26, 2019

**TIME:** 12:30 PM

**LOCATION:** State Capitol Conference Room 308

**TITLE OF BILL:** HB 615 HD 2 RELATING TO THE BOARD OF EDUCATION

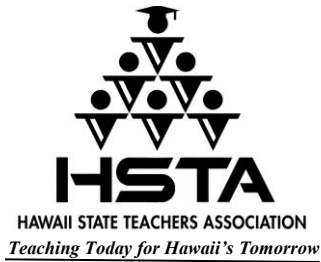
**PURPOSE OF BILL:**

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. (HB615 HD2)

Chair Luke, Vice Chair Cullen, and Members of the Committee on Finance:

The Hawaii Teacher Standards Board (HTSB) supports HB 615 HD2, to amend the Board of Education membership by adding a nonvoting public school teacher, appointed by bargaining unit 5. The HTSB would also ask the Committee to consider allowing the teacher member to become a full voting member in the future, if allowable by law.

Thank you for the opportunity to testify.



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TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
FINANCE

RE: HB 615, HD2 - RELATING TO THE BOARD OF EDUCATION

TUESDAY, FEBRUARY 26, 2019

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Luke and Members of the Committee:

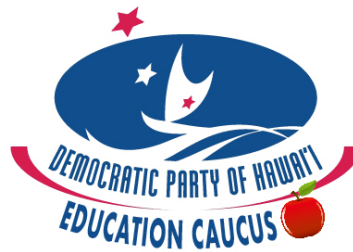
The Hawaii State Teachers Association **strongly supports HB 615, HD2** relating to the Board of Education.

Teacher voice matters. Too often, educational governance decisions are made without the input of the hardworking public school teachers in Hawai'i, 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 Hawai'i 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 2, RELATING TO THE BOARD OF EDUCATION

FEBRUARY 26, 2019 · HOUSE FINANCE  
COMMITTEE · CHAIR SYLVIA LUKE

**POSITION:** Support.

**RATIONALE:** The Democratic Party of Hawai'i Education Caucus supports HB 615, HD 2, 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-2**

Submitted on: 2/25/2019 11:04:05 AM

Testimony for FIN on 2/26/2019 12:30:00 PM

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

Comments: