



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

Date: 02/04/2020

Time: 02:30 PM

Location: 309

Committee: House Lower & Higher
Education

Department: Education

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

Title of Bill: HB 2093 RELATING TO EDUCATION DATA.

Purpose of Bill: Requires the Department of Education to establish a standardized data collection process; collect and analyze data relating to, among other things, student discipline, school climate, and student achievement; and annually report certain information to the Board of Education, Legislature, and the public.

Department's Position:

The Department of Education (Department) supports HB 2093 with the proposed amendment. Systematic data collection improves our identification of best practices and data integrity. Further, expanding data collection will strengthen and inform decision-making by our schools, complex areas, and state offices.

The Department collects and reports accountability data for StriveHI, the Every Student Succeeds Act (ESSA), EdFacts, the Civil Rights Data Collection (CRDC), the Consolidated State Performance Report (CSPR) and the State Systemic Improvement Plan (SSIP). As new reporting requirements develop, enhancements to source systems of data may be required to accommodate new data collection.

To reduce the collection burden on the states, CRDC is proposing to retire some mandatory reporting of several items (*link to proposed changes: [Federal Register, September 19, 2019](#)*). Should the U.S. Department of Education decide to eliminate or reduce the reporting of civil rights data, the Department has committed to continue its civil rights data collection for state accountability.

To leverage data assets and increase the value of longitudinal student data for decision-making, the Department is expanding the current longitudinal data repository system called the Longitudinal Education Information (LEI) System. This system also consolidates multiple data reporting systems into a single data repository that supports the Department's information

requirements for continuous improvement, accountability, compliance, and strategic and public/policy reporting.

The Department publicly reports data for subgroups when the subgroup is greater than ten (10) students. Data is not publicly reported for a subgroup with ten (10) or fewer students. This practice ensures that the personally identifiable information of each student is kept private, while also maintaining alignment with Hawaii's approved Hawaii Consolidated State Plan for the Every Student Succeeds Act. As such, the Department proposes the following amendment for the Committee's consideration:

Page 4, line 14 through 19 should be revised to read: *Data shall be reported as required by this section when the number of students in a particular data subgroup is greater than **ten (10)** and shall be redacted when the number of students in a particular data subgroup is **ten (10)** or fewer; provided that the personally identifiable information of each student shall be kept private.*

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

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. 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.



Corey Rosenlee
President
Osa Tui Jr.
Vice President
Logan Okita
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LOWER AND HIGHER EDUCATION

RE: HB 2093 - RELATING TO EDUCATION DATA

TUESDAY, FEBRUARY 4, 2020

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson and Members of the Committee:

The Hawaii State Teachers Association supports HB 2093, relating to education data.

This bill would require the Department of Education to establish a standardized data collection process; collect and analyze data relating to, among other things, student discipline, school climate, and student achievement; and annually report certain information to the Board of Education.

Although the Department of Education collects a lot of data, this bill would reform Hawaii's laws on education data collection practices and make data more accessible to families, community members, and advocates. The federal Department of Education requires all districts to submit biennially a set of data indicators called the Civil Rights Data Collection. The last published collection was the 2015-16 school year. The DOE sends a guidance memo out each time the CRDC needs submission, but does not have official policies or requirements for how individual schools and complex areas must submit and verify this data. Individual principals send in their data, and it is up to those principals and complex area superintendents to verify this data. The central office at the HIDOE does not verify the accuracy of this data or enforce data collection best practices as the last report was filled with inaccuracies according to the HIDOE themselves. They publicly acknowledged that they submitted inaccurate data and gave the wrong data to the Federal Department of Education. The DOE had to resubmit their 2015-16 CRDC data to the federal government in August 2019 after the ACLU of Hawai'i alerted them in June 2019 of drastic disparities in the data.

There was also a large number and length of suspensions, particularly for Native Hawaiian and Pacific Islander students and students with disabilities. This is concerning, to say the very least. The DOE hired an outside consultant to recalculate their school discipline indicators. The HIDOE explained that they had double-counted suspension term lengths. As another example, the DOE reported zero school



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

psychologists employed in 2015-16. However, the HDOE does have school psychologists, but they are employed at the complex level, only reporting school-level data meant that none were counted in that year's CRDC data. This resulted in advocates being unable to determine if the level of staffing is sufficient to meet students' needs. The DOE also turned in that there were zero instances of restraint and seclusion; however, per a public records request the ACLU of Hawai'i submitted in January 2019, the DOE reported at least 67 cases in 2017-18. The DOE admitted in July 2019 that by reporting "zero" instances, it meant it did not collect this data for the 2015-16 year at all, rather than having zero instances of restraint.

This particularly affects children with disabilities; We owe it to our most vulnerable students to identify this data, and protect them. The Federal Department of Education is rolling back data reporting requirements in the Civil Rights Data Collection. This bill retains those protections. Under this presidential administration, the federal government has consistently walked back or removed civil rights protections relating to transgender students; discrimination affecting an entire protected class within schools or school systems, including race, gender, national origin, and English Language learner and disability status; and now, in the types of data indicators school systems must collect. If the DOE does not collect data on student discipline, school climate, and student achievement, the state is not able to determine if there are deficiencies (or even success stories) and is not adequately serving its students.

To better determine where more supports are needed for students and their teachers in our public schools, including charter schools, The Hawaii State Teachers Association asks that your committee to **support** this bill.



Hawai'i

Committees: House Committee on Lower and Higher Education
Hearing Date/Time: February 4, 2020 at 2:30pm
Place: Room 309
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 2093, Relating to Education Data.

Dear Chair Woodson, Vice Chair Hashem, and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in support of H.B. 2093, which would reform Hawai'i's laws on education data collection practices and make data more accessible to families, community members, and advocates.

Hawai'i's current data collection policy is to have no policy at all, and provides no way to check if the data is accurate. This bill requires the Hawai'i State Department of Education ("DOE") to create mandatory policies for data collection and implement an audit process for determining if the data collected and submitted is accurate.

The federal Department of Education ("ED") requires all districts to submit biennially a set of data indicators called the Civil Rights Data Collection ("CRDC"). The last published collection was the 2015-16 school year. The DOE sends a guidance memo out each time the CRDC needs submission, but does not have official policies or requirements for how individual schools and complex areas must submit and verify this data. Individual principals send in their data, and it is up to those principals and complex area superintendents to verify this data. The central office at the DOE does not verify the accuracy of this data or enforce data collection best practices.

The Hawai'i Department of Education submitted inaccurate data and misrepresented data to the Federal Department of Education. There are two widespread examples of how this data has been inaccurate in the past, to the detriment of the children the DOE serves:

1. The DOE had to resubmit their 2015-16 CRDC data to the federal government in August 2019¹ after the ACLU of Hawai'i alerted them in June 2019² of drastic disparities in the

¹ Suevon Lee, "Hawaii DOE Releases Revised Data on Student Suspensions," *Civil Beat* <https://www.civilbeat.org/2019/08/hawaii-doe-releases-revised-data-on-student-suspensions/> (August 15, 2019).

² Suevon Lee, "ACLU Says Hawaii Schools Are Suspending Too Many Students," *Civil Beat* <https://www.civilbeat.org/2019/06/aclu-says-hawaii-schools-are-suspending-too-many-students/> (June 14, 2019).

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

number and length of suspensions, particularly for Native Hawaiian and Pacific Islander students and students with disabilities. The DOE hired an outside consultant to recalculate their school discipline indicators.

For instance, the DOE said it double-counted suspension term lengths. As another example, the DOE reported zero school psychologists employed in 2015-16. Because school psychologists are employed at the complex level, only reporting school-level data meant that none were counted in that year's CRDC data. This results in advocates being unable to determine if the level of staffing is sufficient to meet students' needs.

2. The DOE misrepresented that it had collected data on instances of restraint³ and seclusion, per state and federal law requirements, when it had not.⁴ It reported zero uses of restraint in the 2015-16 CRDC. Per a public records request the ACLU of Hawai'i submitted in January 2019, the DOE reported at least 67 cases in 2017-18. The DOE admitted in July 2019 that by reporting "zero" instances, it meant it **did not collect this data for the 2015-16 year at all**, rather than having zero instances of restraint. This particularly affects children with disabilities; We owe it to our most vulnerable students to identify this data, and protect them.

The Federal Department of Education is rolling back data reporting requirements in the Civil Rights Data Collection. This bill retains those protections. Under this presidential administration, the federal government has consistently walked back or removed civil rights protections relating to transgender students; discrimination affecting an entire protected class within schools or school systems, including race, gender, national origin, and English Language learner and disability status; and now, in the types of data indicators school systems must collect. ED is proposing to modify future CRDC requirements. If the DOE does not collect data on student discipline, school climate, and student achievement, the state is not able to determine if there are deficiencies (or even success stories) and is not adequately serving its students.

The Department of Education does not adequately analyze its data for instances of disparity; this bill requires data analysis to identify disparities. Simply collecting data is step one. Step two is to analyze the data collected for disparities. "Do we suspend more Native Hawaiian youth than

³ U.S. Department of Education, "*Restraint and Seclusion: Resource Document*," p. 2 <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (May 2012). Restraint means physically, mechanically, or chemically (via drug) to control movement or behavior; children have been injured and even died while in school due to these methods.³ The use of restraint presents high risks to the student's safety, and ED has found no evidence that using such methods decreases the behaviors that precipitated the need for restraints.

⁴ Suevon Lee, "Hawaii Provided 'Inaccurate' Data On Student Restraint And Seclusion," *Civil Beat* <https://www.civilbeat.org/2019/07/hawaii-provided-inaccurate-data-on-student-restraint-and-seclusion/> (July 8, 2019).

Japanese youth? At which schools?" These types of questions could not be answered under current data practices. The ACLU of Hawai'i has submitted numerous public records requests related to school discipline disparities, but these requests have been returned unfulfilled because the DOE does not maintain these types of records. However, this is basic information that all interested parents, community members, advocates, and students should have access to; requiring this analysis and that the DOE take steps to address any disparities found, means that students will be identified and served.

The Department of Education does not adequately publish or make available data to families and advocates. The types of data collection and analysis required in this bill have been implemented in part or whole in over 30 states. This legislation is necessary to identify instances of disparity between our most vulnerable populations of students, and ensure that the disparities are rectified. The bill requires the DOE to make the data publicly available, in a format easy to understand. If we are truly dedicated to raising academic achievement, knowing how we decide to sanction students is imperative.

For the above reasons, we urge the Committee to support this measure. Thank you for the opportunity to testify.

Sincerely,

Rae Shih
Legal Fellow
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.

HB-2093

Submitted on: 2/1/2020 5:12:41 AM

Testimony for LHE on 2/4/2020 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	aaup of hawaii	Support	No

Comments:

HB-2093

Submitted on: 2/1/2020 7:03:17 PM

Testimony for LHE on 2/4/2020 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Please support HB2093.

Mahalo,

Caroline Kunitake

LATE

The Hawaii Disability Rights Center submits these comments concerning HB 2093.

This bill will help the Legislature and the public to know how students with disabilities are being educated by the Hawaii Department of Education (HIDOE). Currently, HIDOE has nonexistent or insufficient standards and controls on collecting and maintaining data. This has resulted in two recent incidences where inaccurate information was released to the public.

One example of this was when HIDOE reported suspension numbers showing that it had the highest rate **in the nation** of suspending students with disabilities. When this unusually high rate was reported multiple times in the news media in mid-2019, HIDOE said it was not correct and claimed it had double counted some suspensions. HIDOE has not provided its revised suspension data in a way that makes it possible to determine the suspension rate for students with disabilities. Thus, neither the Legislature nor the public knows HIDOE's current claims as to the suspension rate for students with disabilities.

A second example was when HIDOE reported to the federal government that it had not used restraints for an entire school year. Although HIDOE admitted that figure was inaccurate, it has not provided any alternative figure. Thus, neither the Legislature nor the public knows the amount of restraints used at HIDOE schools.

Our agency also receives frequent reports of students sent home from school due to behavior problems without the school providing a written finding required by HAR §8-19-8. We suspect that in many of these incidents, the school is not reporting the missed school as a suspension. This bill, by requiring HIDOE to analyze and maintain its data, should reduce the use of these unreported (ad hoc) suspensions.

The United States Department of Education Civil Rights Data Collection shows that students with disabilities are suspended or restrained at higher levels than are students without disabilities. It is important that HIDOE collect and make public suspension and other discipline information in a consistent manner to allow the public and the Legislature to evaluate the education received by students with disabilities.

Currently, the Federal Government is eliminating many reporting requirements. Therefore, it is particularly important now that the Legislature establish HIDOE's obligation to maintain and publish accurate information.

LATE

HB-2093

Submitted on: 2/3/2020 5:08:19 PM

Testimony for LHE on 2/4/2020 2:30:00 PM

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

Comments:

LATE

HB-2093

Submitted on: 2/3/2020 10:19:03 PM

Testimony for LHE on 2/4/2020 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan Mandado	Individual	Support	No

Comments: