



STATE OF HAWAII
Executive Office on Early Learning
2759 South King Street
HONOLULU, HAWAII 96826

February 1, 2020

TO: Representative Justin H. Woodson, Chair
Representative Mark J. Hashem, Vice-Chair
Representative Sean Quinlan, Vice-Chair
House Committee on Lower & Higher Education

FROM: Lauren Moriguchi, Director
Executive Office on Early Learning

SUBJECT: Measure: H.B. No. 2203 – RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS
Hearing Date: February 4, 2020
Time: 2:30 p.m.
Location: Room 309

Bill Description: Requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

EXECUTIVE OFFICE ON EARLY LEARNING'S POSITION:
Comments (with suggested amendments)

Good afternoon. I am Lauren Moriguchi, Director of the Executive Office on Early Learning (EOEL). EOEL respectfully offers comments on H.B. 2203 as it relates to students in the EOEL Public Prekindergarten Program, with suggested amendments.

EOEL is statutorily responsible for the development of the State's early childhood system that shall ensure a spectrum of high-quality development and learning opportunities for children throughout the state, from prenatal care until the time they enter kindergarten, with priority given to underserved or at-risk children.

Included in EOEL's responsibilities is administration of the EOEL Public Prekindergarten Program.

Every year, as many as 8,710 three- and four-year-olds across the nation may be expelled from or pushed out of their state-funded preschool or prekindergarten classroom – these expulsions are happening at a rate more than three times that of their peers in kindergarten through grade 12, according to a joint statement drafted by the National Association for the Education of Young Children, with support from a host of other national organizations known as leaders in addressing early childhood education. Data from the federal Department of Education Office for Civil Rights

indicates a significant percentage of these children are also suspended more than once, leaving them with few supports and fewer options to ensure they are able to participate in the high-quality early learning they deserve.

Many more children are suspended, with the data demonstrating severe racial disparities. It is important to note that “(g)irls who are Black, Native Hawaiian, or Pacific Islander represent 30 percent or more of all out-of-school suspensions even though they have a much smaller total population in preschool than girls in other racial or ethnic groups” (U.S. Department of Education Office for Civil Rights, 2014).

This is particularly troubling given such suspensions and expulsions occur during a critical period in a child’s development, when their brains are developing rapidly. The earliest years of a child’s life are critical to laying the foundation of learning and wellness needed for success in school and beyond. It is especially during these years that systems should ensure our youngest children have access to opportunities that will set them up to reach their highest potential. By suspending or expelling them, we instead set our youngest off in the wrong direction, before they even reach kindergarten. Also, the EOEL Public Pre-K Program specifically prioritizes our underserved and at-risk populations – those children who can benefit the most from early learning – and suspending or expelling them would not only leave them with no early learning opportunities but send them a completely wrong message that may affect them for a lifetime.

Well-established research indicates that school suspension and expulsion practices are associated with adverse educational and life outcomes. Suspension and expulsion early in a child’s life predicts suspension and expulsion later in school. Children who are suspended or expelled from school are as many as 10 times more likely to drop out of high school, experience academic failure, hold negative school attitudes, and face incarceration than their peers who were never suspended or expelled.

We note that other states have also introduced and enacted legislation to prohibit suspension/expulsion in the early years, and that the National Conference of State Legislatures supports states in the crafting of policies that prohibit suspension and expulsion. The federal Departments of Health and Human Services, and Education also issued a joint policy statement in 2014 to support states and localities in prohibiting suspension and expulsion, "with state and local recommendations to address expulsion and suspension in early learning settings ... affirm(ing) the Departments' efforts to prevent and eventually eliminate expulsion and suspension in all early childhood settings and support young children's social, emotional, and behavioral development."

Though each case is different, suspensions and expulsions may be the result of the lack of or misguided policies, or insufficient training and support services for staff, especially in managing challenging behaviors, recognizing trauma, and promoting socioemotional development.

Research has shown links between program and teacher quality, and suspensions/expulsions.

We recognize that in isolation, legislation is not enough to address the issue of suspension and expulsion. Especially because the Program targets our underserved and at-risk children, we work with the educators in the Program to prevent suspensions and expulsions by arming them with the competencies to work with children who do not come from optimal backgrounds. We provide them with professional learning support and work with school leadership on staffing so they are able to support preschoolers and families living in difficult circumstances. We have also been partnering with the University of Hawaii system to strengthen the pipeline of qualified early childhood educators. When vulnerable children

encounter teachers who are unprepared to support their developmental needs, these children who can benefit the most from early learning are rejected at an even earlier age and their families are left without options.

Since the start of the EOEL Public Pre-K Program in fall 2014, we have had some cases in which a school wanted to consider exiting a child participating in the Program. EOEL provided support and guidance to help the teacher more appropriately address challenging behaviors and better support the children, which, as mentioned, is instrumental to avoiding suspension/expulsion ... and the children ended up staying at the school in the Program.

A long-standing and continuing practice in Head Start is not to suspend or expel any child. Programs are required to partner with families, consult with specialists, help the child and family obtain additional services as appropriate, and take all possible steps to ensure the child's successful participation in the program.

With regard to students in the EOEL Public Pre-Kindergarten Program, we respectfully request that the Committee consider using the language found in carryover measure H.B. No. 1346, H.D. 2, S.D. 1. The language in that bill was the result of discussions with the Department of the Attorney General.

We would also like to note that:

- **H.B. No. 2203 covers only out-of-school suspensions for students in prekindergarten. H.B. No. 1346 covers suspensions in general for these students (its scope is broader).**
- **We believe matters relating to the suspension and expulsion of students in the EOEL Public Pre-K Program should also involve EOEL and our governing board, the Early Learning Board.**

Thank you for the opportunity to testify on this bill. I am happy to answer any questions you may have.

To: Representative Justin H. Woodson, Chair
Representative Mark J. Hashem, Vice-Chair
Representative Sean Quinlan, Vice-Chair
House Committee on Lower & Higher Education

From: Robert G. Peters, Chair
Early Learning Board

Subject: **Measure:** H.B. No. 2203 – RELATING TO DISCIPLINARY ACTION IN PUBLIC SCHOOLS
Hearing Date: Tuesday, February 4, 2020
Time: 2:30 p.m.
Location: Room 309

Bill Description: Requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

Early Learning Board Position: Comments (suggested amendments)

I am Robert G. Peters, Chair of the Early Learning Board (ELB). Thank you for this opportunity to offer comments on behalf of the ELB with regard to HB No. 2203 and suggested amendments.

Through Act 202, Session Laws of Hawaii 2017, ELB transitioned from an advisory to a governing board for the Executive Office on Early Learning (EOEL) and is charged with formulating statewide policy relating to early learning. We are composed of members from across the early childhood field, in both the public and private sectors.

ELB's mission is to support children's academic and lifelong well-being by directing and supporting the EOEL for an effective, coordinated, high-quality early learning system from prenatal to kindergarten entry. Among EOEL responsibilities is the administration of the Public Pre-Kindergarten Program.

National guidelines and best practices have guided other states, such as Illinois and Ohio, which have enacted legislation to prohibit suspension/expulsion in the early years. Such legislation has been modeled after federal law governing the Head Start Program and if enacted in Hawaii will align the Executive Office on Early Learning's Public Education Prekindergarten program with the Department of Health and Human Services and Education Departments' joint policy statement in 2014 "affirm(ing) the Departments efforts to prevent and eventually eliminate expulsion and suspension in all early childhood settings and support young children's social, emotional and behavioral development."

Educators are becoming more informed about, and attuned to the social emotional needs of children, recognizing their impact on learning. Children dealing with trauma or toxic home conditions are not ready to learn and often preoccupied, not able to focus on learning. It is not unusual for children who bring these problems to school to “act out.” In young children, especially, it is often difficult to determine if such behaviors are developmental in nature or issues of genuine concern. Expulsion and suspension are often responses to challenging behaviors of this type.

Research indicates that prekindergarten expulsion and suspension of children at this critical juncture in their growth and development are often repeated throughout a student’s school history and associated with negative educational and life outcomes. It also demonstrates that there are racial and gender disparities, with boys receiving a majority of out-of-school suspensions. Data from the Office for Civil Rights, U.S. Department of Education, in 2014 revealed that Black, Native Hawaiian, or Pacific Islander girls represented a higher percentage rate of out-of-school suspensions despite their smaller representation in the total girl population in preschool.

The EOEL has made it a priority to prevent expulsion by providing professional learning support to educators in their Pre-K program, as well as work with school leadership, to recognize when challenging behaviors are truly serious and needing additional attention versus when they are within the natural developmental trajectory of all children. Suggested steps to keep children with challenging behaviors in school and resources to address individual needs has complemented the EOEL’s efforts to work with UH in developing the competencies of future teachers needed to meet individual needs.

The Early Learning Board (ELB) respectfully requests that the committee consider the language in carryover measure H.B. No. 1346, H.D. 2, S.D. 1, which resulted from discussions with the Department of the Attorney General, with regard to Public Pre-Kindergarten. It includes a broader scope---not just out-of-school suspensions---and engages the EOEL and ELB in matters related to Public Pre-K suspension and expulsion.

Thank you for the opportunity to offer testimony on this bill.

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

Jennifer S. Winn
First Deputy

Diana Gausepohl-White
Victim/Witness Program Director

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**THE HONORABLE JUSTIN H. WOODSON, CHAIR
THE HONORABLE MARK J. HASHEM, VICE CHAIR
THE HONORABLE SEAN QUINLAN, VICE CHAIR
HOUSE COMMITTEE ON LOWER & HIGHER EDUCATION
Thirtieth State Legislature
Regular Session of 2020
State of Hawai'i**

February 4, 2020

RE: H.B. 2203 – RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS.

Chair Woodson, Vice Chairs Hashem and Quinlan, and members of the House Committee on Lower & Higher Education, the Office of the Prosecuting Attorney of the County of Kaua'i submits the following testimony in support of H.B. 2203.

The purpose of this Bill is to require the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup, to restrict the use of out-of-school and in-school suspensions among students in grades 6 through 12, and eliminate the use of out-of-school suspensions for students in prekindergarten through grade 5.

Lengthy out-of-school suspensions are a key stressor in the school-to-prison pipeline. The students most likely to be suspended are the students least likely to have a support network at home to adequately supervise them during the term of the suspension. Students should be kept on campus and given meaningful educational opportunity whenever possible. Students should only be excluded from their classrooms when they pose a bona fide safety or security threat. It is our experience that students on lengthy suspensions are more likely to get in trouble, find their way into the juvenile justice system, and thereafter into the adult criminal justice system. To be blunt, lengthy out-of-school suspensions don't have any positive benefits whatsoever
hlr and only teach at-risk youth that school is not the place for them.

For these reasons, the Office of the Prosecuting Attorney supports the passage of H.B. 2203. Thank you for this opportunity to testify.

HB-2203

Submitted on: 2/3/2020 12:56:00 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Ho	State of Hawai`i, Department of Education	Oppose	No

Comments:

As the complex area superintendent of the Castle-Kahuku Complex Area, I strongly support the Department's suggested edits to this measure, who do not support eliminating out-of-school suspensions for students in Grades PreK-5, and cap the out-of-school and in-school suspensions for Grades 6-12.

Our schools are committed to providing learning environments which are safe, caring, and positive; and recognizes the correlation student attendance with student performance. Our schools are provided with effective systems and supports that reduce the need of exclusionary discipline practices. Although school suspensions are not prohibited, they are administered by school administrators as the last corrective intervention following positive behavior interventions and supports and social and emotional learning focused on our students' behavioral, social, academic, emotional, and physical needs.

Our school administrators are provided professional development and understand that our Hawaii Administrative Rules are to first create, promote, and maintain a school environment which are safe and secure, teach and acknowledge proper behavior to support the educational process and self-development, and maintain proper student conduct to ensure that educational activities and responsibilities remain uninterrupted.

Thank you for this opportunity to provide testimony.

HB-2203

Submitted on: 2/3/2020 2:15:37 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Wesley Shinkawa	Department of Education - Kapolei High School	Oppose	No

Comments:

HB2203

SUBJECT: Relating To Disciplinary Actions In Public Schools

As principal of Kapolei High School I strongly oppose HB 2203. As educators, we are committed to ensuring that all public school students are educated in learning environments that are safe, caring and positive.

The Department of Education recognizes the importance and value of student attendance and its impact on student success. Currently, the Department provides its schools with effective systems and supports that reduce the need for exclusionary discipline practices. While exclusionary discipline practices, including suspensions, are not prohibited, they may be used with caution only after all disciplinary options are considered. Special considerations are given when issuing suspensions for students who are in grades K to grade 3.

Disciplinary actions imposed on students do not follow a one size fits all criteria. When contemplating exclusionary school discipline, school administrators must consider the following:

- The intent of the offender
- Nature of severity of the offense
- Impact of the offense on others
- Age of the offender
- The offender was a repeat offender

Safety is the utmost concern across all campuses in the Department and principals are very cognizant of the valuable balance between proactive positive behavior supports, restorative justice and consequences for repeated and severe actions such as suspensions. I strongly support our current system to utilize suspensions only as a last resort. Limiting the option for suspending students who demonstrate pervasive and persistent severe behaviors will be a detriment to the overall safety of our campuses and trust within our communities.

Thank you for the opportunity to provide testimony on HB 2203.

Wesley Shinkawa

Principal of Kapolei High School



STATE OF HAWAII
DEPARTMENT OF EDUCATION
Kāneʻohe Elementary School
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Date: 02/04/2020
Time: 2:30 PM
Location: 309
Committee: House LHE

Department: Education
Person Testifying: Derek Minakami, NBCT, Principal of Kāneʻohe Elementary School
Title of Bill: HB 2203 RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS.
Purpose of Bill: Requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

Position: OPPOSE

While I agree with the intent behind the bill, I oppose HB 2203 on the basis that it limits the options available to schools to ensure the safety of all students.

As an elementary school principal, suspension from school is used sparingly and only when deemed absolutely necessary. In fact, last school year we did not suspend any students and over the three years prior, we only suspended students twice-a-year and in one year, nine times. For a school of 640, this demonstrates how rarely we use suspensions as part of our educational program. Prior to issuing these suspensions, we utilized Restorative Justice practices and provided positive behavior support. We strove to mitigate the need for removal to its greatest extent. Yet, during those moments when we have suspended students due to the circumstances and context, suspension was necessary to ensure safety.

It's difficult to imagine that a young child might need to be excluded from school on a temporary basis. Yet, we've had a seven year old engage in serious actions, destroying school property with the intent to inflict self-harm. We've had a nine year old throw a desk across the room at his peers and then attempt to elope off campus because his temper was so escalated. While these cases are extreme and very infrequent, they do occur and necessitate the temporary removal of those students. Our intention is to keep students safe while we work with the families to collaboratively develop the best course of action.

While repeated suspensions can potentially cause long term harm, when used judiciously suspensions can be a tool for long term benefit.

HB-2203

Submitted on: 2/1/2020 5:13:59 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:



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. 2203, Relating to Disciplinary Actions in Public Schools

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

The American Civil Liberties Union of Hawai'i writes in **support of H.B. 2203**, which eliminates school suspensions in pre-kindergarten through elementary school, and caps suspensions to ten aggregate days per school year in middle and high school. The bill makes clear differences in out-of-school, in-school, and ad hoc suspensions, and collects data on disparities in the use of such suspensions. This bill is an essential step in protecting a student's right to an education, decreasing the likelihood of juvenile or adult criminal legal system outcomes, and increasing academic proficiency.

Such suspensions are drastic sanctions in any student's school career. These should only be used as a last resort. Studies have shown that suspensions not only fail to address the root causes of disruptive behavior, but also are related to future undesirable outcomes such as dropping out of school and becoming enmeshed in the criminal justice system. **Suspensions have a profoundly negative impact on students, denying them valuable education time, increasing drop-out rates, and fueling the school-to-prison pipeline.**¹

Research indicates that the negative effects of exclusionary discipline are more pronounced for males, students of color and students with disabilities — groups that have historically experienced higher rates of suspension and expulsion.² In addition to the problem of lengthy suspension terms, **disparities in the number and/or length of suspensions across race and disability create even more obstacles to obtaining a quality education.** Students of ethnic or racial minorities do not

¹ Nancy Heitzeg, "Criminalizing Education: Zero Tolerance Policies, Police in the Hallways, and the School to Prison Pipeline," *Education to Incarceration*, 2014, available at https://www.hamline.edu/uploadedFiles/Hamline_WWW/HSE/Documents/criminalizing-education-zero-tolerancepolice.pdf (citing the National Association for the Advancement of Colored People's definition of the school-to-prison pipeline: "In the last decade, the punitive and overzealous tools and approaches of the modern criminal justice system have seeped into our schools, serving to remove children from mainstream educational environments and funnel them onto a one-way path toward prison...the School-to-Prison Pipeline is one of the most urgent challenges in education today).

² Alyssa Rafa, Education Commission of the States, *The Status of School Discipline in State Policy*, available at <https://www.ecs.org/wp-content/uploads/The-Status-of-School-Discipline-in-State-Policy.pdf>.

commit more disciplinable offenses than their peers, but in aggregate they receive substantially more school discipline, with longer and harsher sanctions.³

Using positive alternatives to suspension leads to better school outcomes. After implementing alternative discipline methods⁴ school systems realized large decreases in their rates of suspension; California saw a 46 percent drop across its districts over a five-year span and Dekalb County in Georgia witnessed a 47 percent decrease in discipline rates.⁵ Administrators say the change resulted in focusing on the underlying causes of student behavior and providing student supports rather than resorting to reactionary, punitive measures.⁶ A Baltimore Public School System official testified their school district created “a shift from thinking about behavior management to thinking about building competency among students to regulat[e] their own behavior as well as build social[-]emotional competencies among adults.”⁷

Without this bill, students’ due process rights are often not protected. Students and their parents often are not informed of their due process rights—including the right to be informed about the details of the suspension, the procedures for contesting such a suspension, and for appealing a decision to impose suspension. The ACLU of Hawai‘i has learned of incidents where students have been suspended for 30, 40, or even 92 days without notice of their right to a hearing or appeal. The process outlined in Chapter 19 is fundamentally stacked against the student and their family and likely violates their constitutional due process rights by denying them a pre-deprivation opportunity to argue against suspension.⁸ This bill helps ensure due process protections by giving parents and

³ U.S. Commission on Civil Rights, “Beyond Suspensions: Examining School Discipline Policies and the Connections to the School-to-Prison Pipeline for Students of Color with Disabilities,” July 2019 Briefing Report, available at <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.

⁴ See Haw. Admin. Rules § 8-19-6(d) for a partial list of already-established non-suspension disciplinary action.

⁵ Tom Torlakson, “State Schools Chief Tom Torlakson Announces Fifth Year in a Row of Declining Student Suspensions and Expulsions,” California Dep’t of Education, Nov. 1, 2017, <https://www.cde.ca.gov/nr/ne/yr17/yr17rel80.asp>; Martha Dalton, “DeKalb Sees Drop in Discipline Incidents After Adopting ‘Restorative Practices,’” WABE, May 1, 2018, <https://www.wabe.org/dekalb-sees-drop-discipline-incidents-adopting-restorative-practices/>.

⁶ *Id.*

⁷ Sarah Warren, Executive Director for Whole Child Services and Support in the Baltimore Public School System, Maryland State Advisory Committee to the U.S. Commission on Civil Rights, testimony, Briefing Transcript, p. 42-43.

⁸ We believe the existing rules are likely unconstitutional, which warrants that schools provide even more care in guaranteeing due process rights. See *Wynar v. Douglas County Sch. Dist.*, 728 F.3d 1062, 1073 (9th Cir. 2013) (acknowledging that suspensions of over ten days requires a “formal process” and upholding process that included written notice of charges, list of witnesses, right to have an advocate, right to present and confront evidence, and pre-deprivation hearing); see also *Hunger v. Univ. of Hawaii*, 927 F. Supp. 2d 1007, 1018 (D. Haw. 2013) (finding that due process rights of student were violated where he was not given sufficient time to meet with Student Conduct Administrator).

Chair Woodson and Members of the Committee on Lower and Higher Education
February 4, 2020
Page 3 of 3

guardians seven school days to appeal a suspension. Students should not be suspended for more than ten days until such hearing takes place.

Data is needed to determine disparities in school discipline. The ACLU of Hawai‘i found evidence of DOE’s non-compliance with federal reporting requirements on instances of restraint⁹ and seclusion from the 2009-10 school year to the 2016-17 school year. The DOE also had to resubmit its federal 2015-16 Civil Rights Data Collection data last year when the ACLU of Hawai‘i discovered large disparities in suspensions for Native Hawaiians and students with disabilities.¹⁰ 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. This is basic information that all interested parents, community members, advocates, and students should have access to; requiring analysis of disparities and that the DOE take steps to address any disparities found, means that students will be identified and served.

School is a place to learn math, reading, and right from wrong. H.B. 2203 focuses on reducing punitive and disparate school discipline so all students can access a quality education. For these reasons, the ACLU of Hawai‘i supports H.B. 2203.

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.

⁹ U.S. Department of Education, Civil Rights Data Collection, *Restraint and Seclusion: Resource Document* (2012) (defining “physical restraint” as “[a] personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely” and a “mechanical restraint” as “[t]he use of any device or equipment to restrict a student’s freedom of movement.”).

¹⁰ 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).

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The Thirtieth Legislature, State of Hawaii
The House of Representatives
Committee on Lower and Higher Education

Testimony by
Hawaii Government Employees Association

February 4, 2020

H.B. 2203 — Relating To Disciplinary Actions in Public Schools

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the intent of H.B. 2203, which restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12 and eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

Schools should already be using suspensions or expulsions as last resort measures but limiting the discretion and flexibility of school administrators to issue consequences could have a detrimental impact on overall school climate and the safety of both students and staff.

Thank you for the opportunity to testify in opposition of H.B. 2203.

Respectfully submitted,

Randy Perreira
Executive Director

TESTIMONY SUBMITTED BY JIM SHON RE HB 2203 - IN SUPPORT

COMMITTEE ON LOWER & HIGHER EDUCATION

Rep. Justin H. Woodson, Chair
Rep. Mark J. Hashem, Vice Chair
Rep. Sean Quinlan, Vice Chair

DATE: Tuesday, February 4, 2020

TIME: 2:30 P.M.

PLACE: Conference Room 309
State Capitol

IN SUPPORT of HB 2203 RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS.

Requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

This section of the compulsory education and disciplinary law, often known by the DOE form 4140, deserves to be standardized, limited, and fully documented in writing. The current discretion of each principal, with a wide variety of interpretations and decisions, creates an unequal level of behavioral permissions and punishments throughout the system.

In addition, for a number of years, there has been a persistent anecdotal narrative that some schools have discriminated against certain demographic immigrant groups in applying this law. Specifically, some HIDOE employees have shared their views that suspensions remove recent immigrants who might be less successful on high stake tests, and thus lower the school's overall academic achievement status.

This charge may or may not be unfair. If true, this bill can begin to remove this bias in the system. If untrue, the HIDOE should welcome ways to assure the public and policy makers that discretion is not inappropriately applied to certain groups, particularly Pacific Islanders.

For this reason, please consider that the data collection and reporting include demographic, cultural, and language information to assure everyone that even unconscious bias is not in the application of the law. SECTION 2, Sections a) and b) speak to this issue **and should be retained**.

TWO PROPOSED AMENDMENTS.

In order to ensure that this happens, it may be important to require HIDOE to also submit their proposed **revision of the 4140 form**, to ensure that each and every school and action are documented from the initial decision: to require that the principal state in writing precisely the action taken and the criteria used. It also goes without saying that HIDOE might further refine (and limit) the criteria for disciplinary actions or suspensions. A bureaucracy runs on its forms. If you don't change the form, you don't change behavior.

A second suggested specific amendment relates to SECTION 3.

"~302A-1134 Exclusion from school. (a) If [for any reason a child becomes a detriment to the moral or discipline of any school,] the principal of a school determines, **in writing**, that a student in grades six through twelve has engaged in conduct....

Mahalo for consideration of this testimony.

February 3, 2020

To: Representative Justin Woodson, Chair, Committee on Lower & Higher Education
Representatives Mark Hashem and Sean Quinlan, Vice Chairs

Re: Testimony in OPPOSITION TO HB: RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS
Submitted by: Disa Hauge, Principal, Wai'anae High School

Aloha Honorable Representatives Woodson, Hashem, Quinlan and Committee members:

I am Disa Hauge, principal of Wai'anae High, and I am writing to express serious reservations concerning HB2203: Relating to Disciplinary Actions in Public Schools.

As a lifelong resident of the Wai'anae Coast, I want you to know that I believe in all of our kids. None of them are throw-away kids and all deserve a quality education. During the six years I have been here at Wai'anae High, we have worked hard to implement an MTSS system of social-emotional supports for all kids which includes mental health services through the Wai'anae Coast Comprehensive Health Center on campus, alternative programming to meet kids' needs, and a contract with Adult Friends for Youth to provide intensive support to the most at-risk kids.

Where is our success? Between 2015 and 2019, annual discipline offense cases decreased from 3,454 to 971, while suspension days decreased from 437 to 180. In 2013, our graduation rate was 69.6%; by 2019, it had risen to 82.7%.

If I don't believe in suspension except as a last resort for health and safety reasons, why am I opposed to this bill? It is because HB2203 restricts schools' flexibility in meeting kids' needs. A safe and orderly campus, particularly in these modern times with inflammatory social media influences, means that I must have the ability to keep the campus safe both for kids who get into trouble and for those who don't.

Students are individuals and deserve individualized responses to their needs. Some students should never be suspended while for others it is a very effective tool in a toolbox of many tools. To artificially set a three day limit on a suspension and to require that the CAS confirm it makes it much more difficult for the school to program for students with behavioral needs while keeping campus safe.

Removal of the 92 day suspension term for students who sell drugs on campus is an open invitation to continued sales on campus and severely impacts my ability to keep vulnerable students and the campus safe.

Although I support the intent of this measure, my experience working with mental health professionals tells me that we will not raise competent, caring citizens unless we have in our toolbox the ability to hold minors accountable for their actions in ways that are meaningful to them. Students who feel no consequences apply to them are ill-prepared for adult life. We will cripple our children if we don't have the means to hold them accountable for their most egregious behaviors. We have many students who eventually succeeded only because we had the tool of suspension and used it judiciously in conjunction with therapy and positive social connections. Please reconsider HB2203.

Thank you for your careful reexamination of HB2203.

February 3, 2020

Lower & Higher Education Committee

Chair Justin H. Woodson

Vice Chair Mark J. Hashem

Vice Chair Sean Quinaln

RE: In Opposition of HB2203

Dear Chair Woodson, Vice Chair Hashem, and Vice Chair Quinlan,

My name is Alexandra Obra, Proud Principal of Waiāhole Elementary School located in Ko‘olaupoko. I am in opposition of HB2203 because it would place a ban or cap on suspensions. As principals, we still need the ability to suspend students only when all other options have been considered and utilized. I strongly urge you not to pass HB2203. I am available should you have further comments or questions. I can be reached at 808-239-3111 (work number) or via email aobra@waiahole.k12.hi.us.

Thank you for your time in this matter!

Sincerely,

Alexandra Obra

Alexandra Obra

Waiāhole Elementary School

Principal

HB-2203

Submitted on: 2/3/2020 9:07:13 AM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Kyle Shimabukuro	Individual	Support	No

Comments:

HB2203

As vice-principal of Mililani Mauka Elementary School, I support the intent of HB 2203 and strongly support the Hawaii Department of Education's suggested edits to this measure.

As an educator with over 20 years of experience, I am committed to ensuring that all of my students learn in a safe, caring and positive learning environment. At our school, we use lessons on character education, social-emotional learning, and school counselors to provide systems of support that reduce the need for exclusionary discipline practices. To the greatest extent possible, we use all other disciplinary options before considering the use of suspensions as a consequence for violations of Chapter 19.

Thank you for the opportunity to provide testimony on HB 2203,

Kyle Shimabukuro

HB-2203

Submitted on: 2/3/2020 10:19:20 AM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Pat Anbe	Individual	Oppose	No

Comments:

Aloha and mahalo for allowing me to provide testimony,

As a former principal in the K-12 setting, I understand how important it is to different levels of consequences to utilize in relation to specific need. I feel that suspensions should always be thought of as a last resort measure when determining consequences, but it is sometimes warranted. Especially to ensure the safety of other students on campus at times. I do not know any principal or vice principal who would not exhaust all possible, lesser consequences prior to considering suspending a student.

I also know that most administrators spend a lot of time working with the student, parents and others when a student may be suspended. It's not a single act that ends. A relationship of trust and understanding must occur for the student to learn and grow after an incident occurs. The suspension may be part of the consequence, but there are also follow up measures and interventions that take place after.

HB-2203

Submitted on: 2/1/2020 7:08:39 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:

Aloha Chair Woodson and Members of the Committee on Lower and Higher Education,

I am writing in support of HB2203 - Elimination and Restriction of School Discipline Measures.

This bill requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

We want to eliminate or cap the use of out-of-school suspensions. The DOE has also indicated in a recent memo the potential increase in staffing for in-school suspensions rather than out-of-school suspensions. We are concerned this does not meet the DOE's responsibility for providing quality educational services (one particularly vulnerable group is students with disabilities). We would want to clarify the definition and reporting of, as well as limit the use of, these types of school discipline.

Mahalo,

Caroline Kunitake

HB-2203

Submitted on: 2/3/2020 11:54:27 AM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Amanda N. Kelly	Individual	Support	No

Comments:

I stand in STRONG SUPPORT of this measure. I have seen firsthand the reactive nature of HIDOE. Numerous special education students are suspended or removed from general education classrooms as a result of behaviors attributed to their disability. The DOE should provide more proactive support and transparency as to the current levels, rates, and reasons for suspensions. They should also comply with existing state (Chapter 465D) and federal laws (IDEA, FAPE, ADA), to ensure our teachers are provided with access to resources, specialists, and the administrative support they deserve.

HB-2203

Submitted on: 2/3/2020 11:57:36 AM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Lara Bollinger	Individual	Support	No

Comments:

Mahalo for the chance to testify on this measure. I am in strong support of taking steps to reduce suspensions and expulsions. DC has passed recent legislation to target the school to prison pipeline. I am linking the law here for you to view: <http://ims.dccouncil.us/Download/39259/B22-0594-SignedAct.pdf>

It is important for our keiki to receive education, which can only happen if they are in school and not subjected to repeated suspensions. Thank you for your time and for standing together for our keiki.

HB-2203

Submitted on: 2/3/2020 12:01:21 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Fred Murphy	DOE - Mililani High School	Oppose	Yes

Comments:

HB2203

Aloha Members of the the Hawaii State House of Representatives,

My name is Fred Murphy and I am the proud principal of Mililani High School. I am submitting testimony HB2203 of myself and the 10 principals listed below, we strongly oppose HB 2203. As educators, we are committed to ensuring that all public school students are educated in learning environments that are safe, caring, and positive.

The Department recognizes the importance and value of student attendance and its impact on student success. Currently, the Department provides its schools with effective systems and supports that reduce the need of exclusionary discipline practices. While exclusionary discipline practices, including suspensions, are not prohibited, they may be used with caution only after all disciplinary options are considered. Special considerations are given when issuing suspensions for students who are in grades K to grade 3.

Safety is the utmost concern across all campuses in the Department and principals are very cognizant of the valuable balance between proactive positive behavior supports, restorative justice and consequences for repeated and severed actions such as suspensions. We strongly support our current system that to utilizes suspensions only as a very last resort. Limiting the option for suspending students who demonstrate pervasive and persistent severe behaviors will be a huge detriment to the overall safety of our campuses and trust with our communities.

The following points summarize our collective voices:

Point 1 – Emotional and Physical for both Victim and Offender

Sometimes, although rare, a physical separation is necessary for the emotional safety of the victim and the community perception of a safe environment. Allowing students who demonstrate persistent and pervasive infractions to remain in school immediately after the serious incident potentially sends a message that the behavior will be tolerated thus potentially resulting in increased behaviors. When principals utilize suspensions it is typically in response for Class A offenses that include but are not limited to physical or sexual harm to another student. A “cooling off period” helps both parties and sets clear boundaries for acceptable behaviors. Currently, all principals work hard to partner consequences with restorative justice and work closely with families to address “root causes” to provide a multitude of positive supports.

Point 2– Balance of Disciplinary Practices

While we agree that there needs to be checks and balances, we cannot only rely on proactive practices and restorative justice, we must include the ability to give consequences. Taking this away from school leadership could lead to an unsafe environment that could downplay serious infractions.

Point 3- Realistic Concerns Addressed as a Team

Suspensions often times help elevate the concerns around behaviors and increase the urgency of parental involvement. Families and community members are aware that because suspension is not a common practice this signifies a serious concern that we must collectively work to improve. The onus is not only the school's responsibility but the situation must compel parents to take action at home as well.

Point 4 - Trust in School Leadership

There is currently a built-in appeals process for disciplinary actions for all suspensions as well as built-in protections for special education students. Kindly remember that the educational officers of the Department understand their responsibility of supporting all of our students and that serious discipline is reserved for only the most serious cases. We hope that you affirm your trust in the decision making of the principals in Hawaii's Public Schools.

Thank you for the opportunity to provide testimony on HB 2203.

Fred Murphy, Principal

Mililani High School

Principals who support this testimony

Jason Nakamoto, Principal

Leilehua High School

Christine Alexander, Principal

Waiialua High and Intermediate School

Elynne Chung, Principal

Mililani Middle School

Brenda Vierra-Chun, Principal

Wheeler Middle School

Ursula Kawaguchi, Principal

Wahiawa Middle School

Avis Nambu, Principal

Mililani Mauka Elementary School

Corinne Yogi, Principal

Kipapa Elementary School

Troy Tamura, Principal

Mililani Waena Elementary School

Steve Nakasato, Principal

Mililani Uka Elementary

HB-2203

Submitted on: 2/3/2020 12:56:00 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Ho	State of Hawai`i, Department of Education	Oppose	No

Comments:

As the complex area superintendent of the Castle-Kahuku Complex Area, I strongly support the Department's suggested edits to this measure, who do not support eliminating out-of-school suspensions for students in Grades PreK-5, and cap the out-of-school and in-school suspensions for Grades 6-12.

Our schools are committed to providing learning environments which are safe, caring, and positive; and recognizes the correlation student attendance with student performance. Our schools are provided with effective systems and supports that reduce the need of exclusionary discipline practices. Although school suspensions are not prohibited, they are administered by school administrators as the last corrective intervention following positive behavior interventions and supports and social and emotional learning focused on our students' behavioral, social, academic, emotional, and physical needs.

Our school administrators are provided professional development and understand that our Hawaii Administrative Rules are to first create, promote, and maintain a school environment which are safe and secure, teach and acknowledge proper behavior to support the educational process and self-development, and maintain proper student conduct to ensure that educational activities and responsibilities remain uninterrupted.

Thank you for this opportunity to provide testimony.

HB-2203

Submitted on: 2/3/2020 1:11:53 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Preece	Hawaii Disability Rights Center	Comments	Yes

Comments:

The Hawaii Disability Rights Center submits these comments concerning HB 2203.

This bill would require the Hawaii Department of Education (HIDOE) to report the numbers and days of children with disabilities being suspended. Imposing this requirement is particularly important now that the Federal government is proposing the elimination of this reporting requirement.

HIDOE reported in the Federal Civil Rights Data Collection (2015-2016) that it had the highest rate **in the nation** of suspending students with disabilities. After its 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. However, 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.

This bill would limit suspensions to seven days. The Hawaii Disability Rights Center knows of no reputable evidence showing that suspending or excluding children with disabilities from school for lengthy periods (or any periods) encourages better behavior or better school performance. The Center is concerned students with disabilities and their families and caretakers are harmed due to lengthy suspensions. The Center supports the limits of suspensions of students with disabilities.

The Center also receives frequent reports of students with disabilities sent home from school without the school providing a written finding required by HAR §8-19-8. These reasons can include alleged behavior problems (such as the child is having a "bad day") or service shortages (such as the teacher being out or an aide being unavailable). We suspect that in many of these incidents, the school is not reporting the missed school as a suspension (these are sometimes called "ad hoc" suspensions). This bill makes clear that all school exclusions must be reported and the reasons for the exclusion must be provided. We believe that proper reporting encouraged by this bill would reduce the exclusion of students with disabilities from school and further their school performance.



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

LATE

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 2203 RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS.

Purpose of Bill: Requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

Department's Position:

The Department of Education (Department) provides comments on HB 2203. The Department is committed to ensuring that all public school students are educated in learning environments that are safe, caring, and positive. The Department recognizes the importance and value of student attendance and its impact on student success. Currently, the Department provides its schools with effective systems and supports that reduce the need of exclusionary discipline practices. While exclusionary discipline practices, including suspensions, are not prohibited, they may be used with caution only after all disciplinary options are considered to ensure the safety of all students. Special considerations are given when issuing suspensions for students who are in grades K to 3.

Furthermore, students who receive special education services and accommodations have specific behavioral and disciplinary safeguards. When a behavior or misconduct is determined to be a manifestation of the student's disability (HAR §8-60-75 and §8-61-13 through §8-61-17), there are additional protections.

The Department's primary strategy to reduce the amount and severity of student misconduct is achieved through the use of research-based practices that create school climates that foster positive, nurturing, and safe student behaviors. Furthermore, school administrators have access to guiding questions and checklists to assist them in making informed decisions on inclusionary and exclusionary disciplinary actions. It is also worth noting that disciplinary actions imposed on students do not follow a one-size-fits-all criteria.

In 2019, the Department amended their HAR Chapter 19 Student Misconduct, Discipline, School Searches, and Seizures, Reporting Offenses, Police Interviews, and Arrests, Restitution for Vandalism, and Complaint Procedure and Investigation of Discrimination, Harassment (Including Sexual Harassment), Bullying, and/or Retaliation (Chapter 19) rule. Included in this amended rule are updated definitions of bullying, harassment, cyberbullying, new protected class definitions and offenses, reclassification of offenses and a complaint procedure for bullying, harassment (sexual harassment), discrimination, and retaliation rule.

Complex Area Superintendents are notified and provide approval on all severe disciplinary actions. In January of 2020, the Department implemented a new behavior management system in Infinite Campus (IC) to capture student behavior incidents and all exclusionary disciplinary actions. Disaggregated student behavior reports by students, schools, behavior incidents (date, time, location, and reason), disciplinary actions (type and length of time), and protective classes, if any, are available for school, complex, district, and state leadership to review. The Department reports data on 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 Every Student Succeeds Act.

As such, the Department proposes the following amendments for the Committee's consideration. These amendments are being proposed as they continue to protect the safety of all of our students without adding undue administrative burden on the Department:

Page 7 line 13 revised to read: students in grades ~~six~~ *K* through twelve has engaged in conduct.

Page 7 line 15 through 16 revised to read: Involves the possession of a dangerous weapon ~~without prior authorization of the principal.~~

Page 8 line 2 should read: attending school for up to ~~five~~ *ninety-two (92)* school days by the principal.

Page 8 lines 4 through 6 should be deleted: ~~provided that no student in prekindergarten through grade five should be precluded from attending school for disciplinary reasons.~~

Page 8 lines 4 through 6 should be deleted: ~~provided that no student in prekindergarten through grade five shall be precluded from attending school for disciplinary reasons.~~

The Department also respectfully requests that page 8 line 14 through page 10 line 13 be deleted from the bill so as to not create any undue administrative burden.

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.

LATE

HB-2203

Submitted on: 2/3/2020 6:24:47 PM
Testimony for LHE on 2/4/2020 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Larkin	Individual	Oppose	No

Comments:

Dear State Congress,

I thank you for your continued diligence in addressing student needs and your desire to improve their lives, especially those of our most vulnerable classes. I fully support some aspects of this bill such as the tracking of student discipline, the emphasis on alternative measures of discipline and the emphasis on positive behavioral supports, which we as a DOE have greatly improved upon in recent years. However, there are aspects of this bill I cannot support.

First off, by limiting our options as professionals working directly in the field to very stringently address severe discipline issues it may actually serve to cause more safety issues for our students who are the victims. Although we wish that no student from K-5 would ever commit offenses that are truly harmful or dangerous to others, that is simply not the case. Despite the wishes of our education system, some students have suffered from others in these younger categories and by not addressing them with a multi-tiered approach that includes discipline, the victimization of others may continue. Do we truly want to tell the mother of a child who was sexually assaulted by a peer in 5th grade that he/she will have to have that student right back in the classroom with them the very next day? Worse, do we want to tacitly give approval to that child that he/she has little to no consequence to their actions other than a firm talking to and some detention? I wish this was a hypothetical, but it is not. Do we really want to limit the time away from school to three days for someone who brings a knife to school with the intent to stab someone in the HOPES that the Superintendent will be available to extend it? I think the events at our mainland schools show that bringing back students who are intent on causing harm quickly does not solve the problem, it only exacerbates them. There needs to be time for counseling, restorative justice practices, and healing to take place.

We look back and see with 20/20 vision that our system has been flawed in many ways, our overemphasis on punitive discipline is one of those ways. However, the system needs to have levels of progressive discipline in place that are logical, systematic, and have the ability, when applicable, to be strong enough to discourage not encourage negative behavior. I strongly feel that with modifications, such as limiting suspensions to class A and B offenses, providing schools with statewide alternatives to punitive discipline systems, and being more realistic about how our students' behavior can be severe enough to merit consequences in some cases, this bill could have potential. As

it is, this bill will severely cut away our schools' chances to maintain good order and discipline as it basically gives a green light to bullying, harassment, and fighting.

Our DOE Principals and Vice Principals are professionals. They are, as a group, turning the corner when it comes to limiting severe discipline measures on their own when it is not justified or needed. By virtually eliminating one of the only true consequence measures that deter our more intensive students they will have their hands tied. Imagine what the Principal's conversation with a mother of a student who's son/daughter got attacked when he has to say, "Yes mom, we know who beat your child, but we used up all our suspensions on the other incidences he had. So your child has to go back to class with him. Sorry, that's the law." Would you tell a judge that the bank robber who is back in front of him for the 4th time served his maximum sentence for the year, so he cannot go back to jail? It's not a great analogy, but unfortunately accurate in this case.

Our students would be better served by a bill that identified a research-based Positive Behavior program that has been proven to be effective and fund it for all schools so Keiki from Big Island who moves to Maui can have the same positive experience at both schools and hopefully never worry about the negative events because we never get to the severe consequences that we all want to avoid.

I thank you for your time and understanding.

Daniel Larkin

Principal, Kalihi Waena Elementary



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

TESTIMONY BEFORE THE HOUSE COMMITTEE ON LOWER & HIGHER
EDUCATION

RE: HB 2203 - RELATING TO DISCIPLINARY ACTIONS IN PUBLIC
SCHOOLS

TUESDAY, FEBRUARY 4, 2020

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

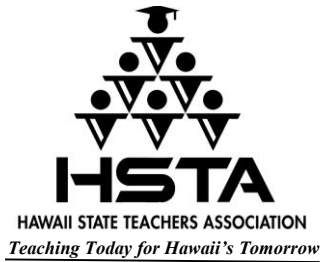
Chair Woodson and Members of the Committee:

The Hawaii State Teachers Association supports HB 2203, relating to disciplinary actions in public schools.

This bill will require the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. It also restricts the use of out-of-school and in-school suspensions among students in grades six through twelve. It also eliminates the use of out-of-school suspensions for students in prekindergarten through grade five.

Disciplinary practices of excluding children, particularly those children that belong to a protected class, from time, resources, and activities at school has a detrimental public impact. Exclusionary school discipline policies, including suspensions, expulsions, and school-based arrests, contribute to the school-to-prison pipeline, a national trend that occurs when students are funneled out of the public school system into the juvenile and adult criminal justice systems. This is not acceptable. Our students and their teachers need more supports within the school. We need smaller class sizes, licensed special education teachers, and more support specialists such as school psychologists, counselors, licensed behavior analysts, and more supplies that will help teachers create and use innovative curriculum and project based learning to engage their students. Our students' families also need more wrap around supports. We need more after school programs, a school nurse at every public school, including charter schools, and other family supports in the community. We need more supports for our keiki, not more punishments.

According to the National Association for the Education of Young Children, every year, as many as 8,710 three- and four year-old children nationwide may be expelled from their state funded preschool or prekindergarten classroom. These suspensions and expulsions are occurring at a rate more than three times that of their peers in



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Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

kindergarten through grade twelve, according to a joint statement drafted by the National Association for the Education of Young Children, with support from a host of other national organizations regarded as leaders in the field of early childhood education. They also have higher suspensions rates than their peers in kindergarten through twelfth-grade. These expulsions and suspensions have disproportionately impacted minority students nationwideⁱ.

We want to ensure these nationwide trends do not happen here in Hawaii, thus we support this bill passing to ensure these practices are limited greatly in our state. We need need more support for our keiki, their teachers, and their families, not more suspensions and expulsions.

The Hawaii State Teachers Association asks that your committee to **supports** this bill.

i

https://www.naeyc.org/sites/default/files/globallyshared/downloads/PDFs/resources/topics/Standing%20Together.Joint%20Statement.FINAL__9_0.

LATE

HB-2203

Submitted on: 2/3/2020 4:58:19 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:

HB-2203

Submitted on: 2/3/2020 5:36:50 PM

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

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Hawaii Women's Coalition	Support	No

Comments:



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Representative Woodson, Chair
Representative Hashem, Vice Chair
Representative Quinlan, Vice Chair
House Committee on Lower & Higher Education

LATE

Re: HB 2203- Disciplinary Actions in Public Schools
Hawai'i State Capitol, Room 309
2:30 M, 2/4/2020

Chair Woodson, Vice Chair Hashen, Vice Chair Quinlan, and committee members,

On behalf of Hawaii Children's Action Network Speaks!, we are writing to support in STRONG support HB 2203- Relating to Disciplinary Actions in Public Schools.

The usage of suspension and expulsion in schools has long proved to be a counterproductive, detrimental means of discipline. Research has shown that young children who are suspended or expelled are 10 times more likely to drop out of high school, experience academic failure and grade retention and face incarceration than those who are not.

When suspension and expulsion are used to handle behavior that has broken a rule or policy of the school, the school misses an opportunity to get to the root of the child's behavior. These young children being pushed out of the classroom are often those in need of intervention and support. Research on exclusionary discipline found that students with disabilities are two times more likely to receive out-of-school suspensions¹. Young children with undiagnosed behavioral or developmental disabilities might be suspended or expelled thus mislabeled, which impedes the process of getting them the additional resources they need.

For these reasons, HCAN Speaks! respectfully requests the Committee to support this measure.

Thank you,

Kathleen Algire
Director, Public Policy and Research

¹ U.S. Department of Health and Human Services and U.S. Department of Education. (2014). Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings. Retrieved from <https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-ece-expulsions-suspensions.pdf>.

hashem2 - Michael

From: Gina Hungerford <hkhzvpgwwttmovw@ujoin.co>
Sent: Sunday, February 2, 2020 9:49 AM
To: LHEtestimony
Subject: Support HB 2203 - DOE Data Collection

From: ginahungerford@gmail.com <Gina Hungerford>

Message:

The DOE needs to be able to present this data so families and the government can make appropriate calculations about efficiency and needs. If it doesn't get documented, it never happened.

Aloha Chair Woodson, Vice Chairs Hashem and Quinlan, and members of the committee,

Please support HB 2203.

Gina Hungerford

Waialua

Hawaii

LATE

HB-2203

Submitted on: 2/3/2020 5:06:23 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Jen Jenkins	Individual	Support	No

Comments:

LATE

HB-2203

Submitted on: 2/3/2020 6:01:39 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Stacie Kunihisa	Individual	Oppose	Yes

Comments:

LATE

HB-2203

Submitted on: 2/3/2020 9:02:31 PM
Testimony for LHE on 2/4/2020 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Okamura	Individual	Oppose	No

Comments:

LATE

HB-2203

Submitted on: 2/3/2020 10:20:13 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:

LATE

LATE

HB-2203

Submitted on: 2/4/2020 12:29:27 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
maile rogers	Individual	Support	No

Comments:

My son has multiple diagnoses including ADHD, Autism, Anxiety, and Distruptive Mood Disregulation Dosorder. Despite the DOE knowing this, they have continued to refuse to HELP my child, and instead, punish him for things directly related to his disability. He was suspended just this week for an altercation during recess. He has struggled with social interactions his ENTIRE life and I have BEGGED the school, for almost four years now, to give him support for unstructured time at school, when he has had issues over and over and over. They have adamantly refused, but he continues to be punished for behavior that he desperately needs help with. The DOE, in our case, has been attempting to punish the disabilities out of my children, rather than supporting them with skill building and immediate intervention and practice. There are other ways. Suspending kindergarteners is ridiculous. My son was suspended twice in kindergarten. He's now in third grade, and it's still happening. Please make the DOE take a proactive approach to helping our children, not a backhanded disciplinary one.

LATE TESTIMONY



Testimony
Mitchell Otani to: Mitchell Otani

02/03/2020 06:30 PM

From: Mitchell Otani/KALANI/HIDOE
To: Mitchell Otani/KALANI/HIDOE@HIDOE

Good afternoon.

My name is Mitchell Otani. I am the current principal of Kalani High School and have been in this position for the past 10 years. Prior to Kalani, I was the principal at Kaneohe Elementary School for 19 years. In total, this is my 29th year as principal.

I am here to provide testimony on House Bill 2203.

In order to keep our schools safe, rules have been established relating to student misconduct.

Hawaii Administrative Rules, Chapter 19, are derived from state law.

Chapter 19 provides us with the policy and procedures that enable schools to ensure that all students have access to a quality education in a welcoming learning environment.

All principals believe that every school must create climates where everyone feels safe and respected and where every child has the opportunity to succeed. Schools should be safe, welcoming and respectful and I believe that all of our schools work very hard to provide the nurturing environment that every child needs. We provide wraparound services to meet children's health and social needs and provide meaningful professional development to help our teachers and administrators manage student behavior and understand new policies relating to student misconduct.

Most of our school officials consider that suspension is an extreme punishment and we use suspensions as a last resort. Most of us do not suspend unless a student does something illegal, dangerous or disruptive. And we do so reluctantly.

Chapter 19 guidelines are non-prescriptive. They allow schools local autonomy and provides us with flexibility to apply 5 factors so that the school can take appropriate disciplinary action. In determining disciplinary actions, we consider the intention of the offender, the nature and severity of the offense, the impact of the offense on others including whether the action was committed by an individual or a group of individuals such as a gang, the age of the offender and if the offender was a repeat offender.

Creating safe, orderly and welcoming learning environments is crucial to educating and preparing all of our students to be productive citizens in our communities. We see violent acts committed by young adults on the evening news and principals are vigilant as we work to make the safety and well being of all of our students our number 1 priority. We understand that suspensions and school-based arrests have a negative impact on the offender. That is true but we also have to make sure that the rest of the students are able to come to a school that they feel is safe and without fear of being

hurt or bullied.

House Bill 2203 does have merit. But new policies in a vacuum without real resources and support will not succeed. Chapter 19 provides us with the tools and the flexibility to implement student discipline while establishing proactive systems to schoolwide discipline.

HB-2203

Submitted on: 2/4/2020 12:16:25 PM

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

LATE

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
keith hui	Dept of Education	Oppose	Yes

Comments:

Aloha, my name is Keith Hui and I currently serve as the complex area superintendent for Pearl City and Waipahu which consists of 18 schools. Considering both my current capacity and former experience as a principal, I would like to take this opportunity to humbly express my respect for the intent of the bill, but also my opposition to the proposed revisions regarding the use of suspension.

Suspensions in school are used with discretion in order to maintain a safe environment for the entire school community. While issues of inclusiveness and access may be a relevant part of the conversation for the suspended student, what we also need to consider is the overall safety of the entire school community which includes victims, employees, families, volunteers and partners. Suspensions are not the "go to" default method of discipline when incidents arise, however, when dealing with issues such as possession, use, or distribution of illegal substances, weapons, or dangerous instruments, suspensions are necessary to ensure the safety of the entire school community. Suspensions are used with extreme discretion and not with intent to deny anyone access to learning.

The proposed changes in the bill to ban or limit the use of suspension would in deed restrict principals' ability to maintain a safe school community. We appreciate the opportunity to share perspectives in this matter and thank you for any consideration given. Mahalo.

Keith Hui

Pearl City/Waipahu Complex Area Superintendent.



STATE OF HAWAI'I
DEPARTMENT OF EDUCATION
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LATE

LATE

Date: 02/04/2020

Time: 2:30 PM

Location: 309

Committee: House LHE

Department: Education
Person Testifying: Stacie Kunihiha, Principal of Kanoelani Elementary School
Title of Bill: HB 2203 RELATING TO DISCIPLINARY ACTIONS IN PUBLIC SCHOOLS.
Purpose of Bill: Requires the Department of Education to track and publish the use of all exclusionary discipline disaggregated by student subgroup. Restricts the use of out-of-school and in-school suspensions among students in grades 6 through 12. Eliminates the use of out-of-school suspensions for students in prekindergarten through grade 5.

Position: OPPOSE

As principal of **Kanoelani Elementary School**, and on behalf of the **Pearl City-Waipahu complex area, all 17 principals listed below**, we strongly oppose HB 2203. As educators, we are committed to ensuring that all public school students are educated in learning environments that are safe, caring and positive.

The Department of Education recognizes the importance and value of student attendance and its impact on student success. Currently, the Department provides its schools with effective systems and supports that reduce the need for exclusionary discipline practices. While exclusionary discipline practices, including suspensions, are not prohibited, they may be used with caution only after all disciplinary options are considered. Special considerations are given when issuing suspensions for students who are in grades K to grade 3.

Safety is the utmost concern across all campuses in the Department and principals are very cognizant of the valuable balance between proactive positive behavior supports, restorative justice and consequences for repeated and severe actions such as suspensions. We strongly support our current system to utilize suspensions only as a last resort. Limiting the option for suspending students who demonstrate pervasive and persistent severe behaviors will be a detriment to the overall safety of our campuses and trust within our communities.

The following points summarizes our collective voices:

Point 1 – Emotional and Physical Safety for both Victim and Offender

Sometimes, although rare, a physical separation is necessary for the emotional safety of the victim and the community perception of a safe environment. Allowing students who demonstrate persistent and pervasive infractions to remain in school immediately after the serious incident potentially sends a message that the behavior will be tolerated thus potentially resulting in increased behaviors. When principals utilize suspensions it is typically in response for Class A offenses that include but are not limited to physical or sexual harm to another student. A “cooling-off period” helps both parties and sets clear boundaries for acceptable behaviors. Currently, all principals work hard to partner consequences with restorative justice and work closely with families to address “root causes” to provide a multitude of positive supports.

Point 2– Balance of Disciplinary Practices

While we agree that there needs to be checks and balances, we cannot only rely on proactive practices and restorative justice, we must include the ability to provide adequate consequences. Limiting the options of school leadership could lead to an unsafe environment, which downplays serious infractions.

It is worth noting, under 8-19-11, alternate educational activities and other assistance are provided to students when being suspended for 10 days or longer. In these unique cases, the removal of one individual is needed to protect the safety of all the students, and in those cases, the individual being removed is still being provided access to education.

Point 3- Realistic Concerns Addressed as a Team

Suspensions oftentimes help elevate the concerns around behaviors and increase the urgency of parental involvement. Families and community members are aware that because suspension is not a common practice this signifies a serious concern that we must collectively work to improve. The onus is not only the schools responsibility but the situation must compel parents to take action at home as well.

Point 4 - Trust in School Leadership

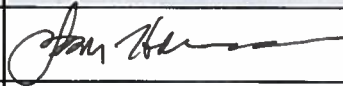

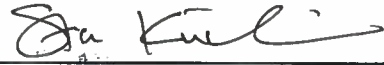

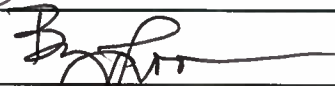




There is currently a built-in appeals process for disciplinary actions for all suspensions as well as embedded protections for special education students. The idea of not allowing principals the discretion to make decisions at our level will severely impact the safety of our campuses.

Thank you for the opportunity to provide testimony on HB 2203.

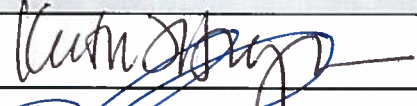


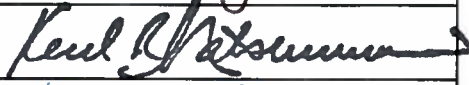


Stacie Kunihsa

Kanoelani Elementary School

**Principals who support this testimony
Pearl City Complex**

Principal Name	School	Signature
Joseph Halfmann	Pearl City High School	
Amy Martinson	Highlands Intermediate School	
Stacie Kuniyama	Kanoelani Elementary	
Alvan Fukuhara	Lehua Elementary	
Bryan Loo	Manana Elementary	
Doreen Higa	Momilani Elementary	Supports - signature not available
Gavin Tsue	Palisades Elementary School	
Susan Hirokane	Pearl City Elementary	
Zachary Sheets	Pearl City Highlands Elementary	
Troy Takazono	Waiiau Elementary	

Waipahu Complex

Principal Name	School	Signature
Keith Hayashi	Waipahu High School	
Randell Dunn	Waipahu Intermediate School	
Hanh Nguyen	August Ahrens Elementary	
Kent Matsumura	Honowai Elementary	
Alika Ahu	Kaleiopuu Elementary	
Sheldon Oshio	Waikele Elementary School	
Aaron Tominaga	Waipahu Elementary	