

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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WRITTEN  
TESTIMONY ONLY

**Testimony COMMENTING on SB 811  
RELATING TO THE DEPARTMENT OF EDUCATION**

REP. JUSTIN H. WOODSON, CHAIR  
HOUSE COMMITTEE ON EDUCATION

Hearing Date: 3/18/2021

Room Number: VIA VIDEOCONFERENCE

1 **Department Testimony:** Thank you for the opportunity to provide comment on Senate Bill  
2 811, which requires the Department of Education to publish a weekly report of schools that have  
3 reported COVID-19 cases. The Department defers to the Department of Education regarding  
4 fiscal and implementation implications related to this measure.

5 The Department of Health provides technical and public health assistance to students, families  
6 and schools during the COVID-19 pandemic, as detailed in the Hawaii Department of Health  
7 Guidance for Schools published on the Disease Outbreak Control Division website.<sup>1</sup>

8 As part of this guidance, DOH has established protocols in coordination with the Department of  
9 Education and independent schools to ensure that appropriate actions are taken to protect the  
10 health of classmates, school staff, the school community, and the public, as applicable. In  
11 response to a case confirmed on a school campus, DOH and school administrators work in  
12 coordination to:

- 13 • Ensure appropriate authorities (both at DOH and the school) have been notified of the
- 14 case,
- 15 • Identify the period of infectiousness of the case, last date on campus, and the window of
- 16 exposure for close contacts,

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<sup>1</sup> <https://health.hawaii.gov/coronavirusdisease2019/files/2020/10/COVID-19-Guidance-for-Schools-Updated-Oct-18-202014209-1.pdf>

- 1       • Identify and notify close contacts of the case and provide guidance regarding testing,  
2       quarantine, symptom-monitoring, and what to do should symptoms develop,
- 3       • And finally, only in the event that it is impossible to ascertain close contacts for a case  
4       who may have exposed others on campus or during school-related activities off campus,  
5       notify the school community through a general or public announcement of the case  
6       including the identified window and location(s) of exposure.

7       The above process is designed to ensure appropriate notifications are made and guidance given  
8       to prevent spread of COVID-19 related to any exposure on a school campus, while protecting the  
9       privacy and confidentiality of the case to the greatest extent possible. Typically, DOH does not  
10      disclose information on specific cases except as necessary to guide the actions of those directly  
11      impacted. The intent behind this approach is to maintain trust and confidence of those from  
12      whom information must be gathered in order to guide public health actions, and to avoid causing  
13      undue anxiety among those from whom no public health action is required based on the facts of  
14      the case.

15      Increased transparency has been offered as an argument in favor of sharing school case data  
16      publicly. DOH respects this argument, but also cautions that oversharing of case data can have  
17      unintended consequences, including:

- 18      • Potential for disclosure of a case to be identifying, especially in smaller schools or in  
19      districts where community transmission is low enough to make a case in a school a rare  
20      event. Identification of a case to classmates or others in the school community can lead  
21      to stigma and even bullying, which can cause harm to the case and/or family members.
- 22      • Inciting panic among school community members who have not actually been exposed  
23      to the case, causing unnecessary disruption of learning or even school closure.

24      If a policy of mandated reporting of cases in schools is to be adopted, DOH believes it will be  
25      critical for DOE and its school communities to also address potential stigma that may follow  
26      from such disclosure, and to contextualize case disclosure with well thought-out guidance about  
27      what such disclosure does and does not signify.

- 1 Thank you for the opportunity to testify on this measure.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
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**Date:** 03/18/2021  
**Time:** 02:00 PM  
**Location:** 309 & 430 Via  
Videoconference  
**Committee:** House Education

**Department:** Education

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

**Title of Bill:** SB 0811 RELATING TO THE DEPARTMENT OF EDUCATION.

**Purpose of Bill:** Requires the department of education to publish a weekly report on schools that have reported COVID-19 cases.

**Department's Position:**

The Department of Education (Department) provides comments on this measure and respectfully requests that the positive COVID-19 case reporting requirements of SB 811 be applied to public schools with student enrollment of 300 or more to support ongoing efforts to keep individuals' identity confidential while they are recuperating.

The Department is committed to doing its part to ensure our state recovers from the effects of the coronavirus disease 2019 (COVID-19) pandemic and is working to balance an individual's right to privacy and public safety when it comes to publicly sharing case information, especially because this involves children.

The Department has been advised that disclosure of a specific school where an individual tested positive for COVID-19 would affect the Department's ability to protect individuals from being identified, harassed and socially discriminated, as well as the school's ability to minimize disruptions due to the increased level of inquiries beyond the immediate school community.

As part of the Department's current efforts, case information is shared at the following levels:

- Immediate notification to individuals who may have come into close contact with the infected person while maintaining confidentiality in accordance with state and federal

law.

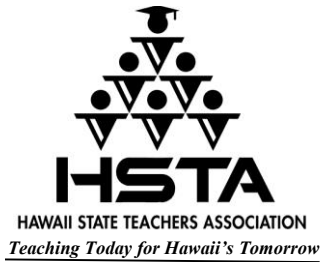
- Notification to staff and families about the possible exposure and Department mitigation efforts.
- A daily report to the Hawai'i State Board of Education of confirmed cases.
- Weekly public reporting of cases by complex area.

The reporting levels are triggered if an individual was at the school or worksite within 14 days of being diagnosed; anything beyond the 14 days has no impact on Department students, staff or facilities. Notably, the aforementioned guidance did specify that the date of the test results and date(s) a COVID-positive individual was on campus could be disclosed if the Department continued to report cases at the Complex Area level.

Further, the Department respectfully submits that the Hawaii State Department of Health (DOH) should remain the lead agency for public reporting of COVID-19 cases as they have the authority to access critical and timely information. The Department's case data is only as good as the information being reported by employees, families, service providers and individuals. In some cases, the documentation provided is verbal only, late or incomplete. The constant follow up by Department administrators for documentation confirming the diagnosis causes unnecessary burden on those who are suffering from illness and who should instead be contacting their healthcare provider regarding the status of their health condition.

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](http://www.hawaiipublicschools.org).



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

TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION and THE  
COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

RE: SB 811 - RELATING TO THE DEPARTMENT OF EDUCATION

THURSDAY, MARCH 18, 2021

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson, Chair Lowen, and Members of the Committees:

The Hawaii State Teachers Association **strongly supports SB 811**, relating to the Department of Education. This bill will require the department of education to publish a weekly report on schools that have reported COVID-19 cases.

Although the Hawaii State Department of Education has stated it has communication policies and procedures in place to address COVID-19 cases, the department generally has not provided information about COVID-19 cases on all school campuses and the limited information that it has shared has been inconsistent and incomplete. For instance, the Department of Education continues to not publicize positive cases listed by school. The HODOE continually cites privacy laws, and only provides information listed by large complex areas, which is most unhelpful to individual schools and the communities they serve.

As stated in a report from the state auditor “Disclosing the summer school cases apparently well after-the-fact, disclosing cases by a large complex area instead of by individual school, and lack of timely notification about updated policies have all been noted in media reports and in our discussions with the teachers’ union. DOE’s communication has been delayed, inconsistent, and with limited specificity. We question the department’s reference to FERPA (**U.S. Family Educational Rights and Privacy Act**) and HIPAA (**U.S. Health Insurance Portability and Accountability Act**) in justifying limiting the information about positive cases, when guidance issued by the federal agencies that oversee those laws specific to COVID-19 seems to reflect neither FERPA nor HIPAA prohibit public dissemination of nonpersonally identifiable information.” The report goes on to say, “The department’s Communications Plan seems to delegate school-level communication decisions to the principals, including informing their respective school communities about positive cases. While we are aware, anecdotally, about some school principals



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sending letters about positive cases to teachers and staff, we were unable to determine whether principals have notified students, families, and others who are part of the 'impacted school community' about all of the positive cases on their respective school campuses.”

Lastly, HSTA is concerned as many of our teacher have confirmed the lack of notification when there is a positive COVID-19 case at their own school! This information is especially critical since teachers and some students have already returned to campus, and as more students begin to return to campus, it is even more concerning.

As stated by the same report, HSTA agrees that to the extent HIPAA, FERPA, and other laws do not prohibit DOE from reporting information about positive cases, the department should do so no later than 24 hours after it is informed of a positive case. That disclosure should state, among other things:

1. the date of the positive test result;
2. whether the positive case is a teacher, an administrator, support staff, or a student;
3. the specific school where the department employee works or the student attends;
4. the times the infected person was on the school campus in the two days immediately prior to positive test results; and
5. the dates and times the infected person was on campus after the positive test results. Information should include details about the cleaning and disinfecting of affected spaces, including the closure of school campuses or school facilities.

The DOE should report, separately, the number of school personnel and students who are self-isolating and self-quarantining by school and update those numbers within 24 hours of changes to the number of school personnel and students who are directed to self-isolate and self-quarantine.

The DOE must provide complete and timely information to the public about changes to its policies and procedures relating to the department's COVID-19 response, generally, and not limited to DOE's protocols for when there is a positive case on a school campus.

For the safety of our students, our teachers, and our community, the Hawaii State Teachers Association asks that your committee to **support** this bill.



**SB811**  
RELATING TO THE DEPARTMENT OF EDUCATION  
Ke Kōmike Hale o ka Ho‘ona‘auao  
House Committee on Education

Malaki 18, 2021

2:00 p.m.

Lumi 309 & 430

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB811, a measure that would require the Department of Education (DOE) to publish a weekly report on schools with COVID-19 cases. OHA works to improve the wellbeing of our Native Hawaiian beneficiaries, who may be experiencing or at risk of experiencing disparate COVID-19 impacts, and believes that this bill will help to inform COVID-19 response and recovery efforts that can best ensure the safety of Native Hawaiian and other students, as well as their families and school staff, as our schools begin to reopen.

Before the reopening of schools, OHA expressed concerns to the DOE and Board of Education (BOE) regarding proposed re-opening plans and the unique impacts reopenings may have on Native Hawaiian students. OHA’s letters and testimonies to the Board of Education and DOE officials noted that Native Hawaiians comprise 25% of the total DOE student population, and that many Native Hawaiians live in multi-generational homes and in crowded conditions, making it difficult to self-isolate in the event that a student or household member contracts COVID-19. OHA accordingly urged the incorporation of reopening assessment standards that could be applied prior to any decision to reopen a school, and that could take into account real-time data and developing guidance from advisory agencies, among other factors. **Consistent with OHA’s recommendations, this measure would help to provide critical, real-time data necessary to assess school reopenings and to respond to outbreak events that may place students, their families, and school staff at heightened risk.**

Additionally, as reflected in OHA’s Data Governance Resolution, HCR3/SCR5, consistent, timely, and accurate data is necessary to best inform our collective COVID-19 response and recovery efforts. Although improvements have been made over the course of the COVID-19 pandemic in Hawai‘i regarding the timeliness and granularity of reported data, significant uncertainties still exist that warrant additional and continuing improvements to our data collection and data governance practices. **Indeed, with new COVID-19 variants present and arriving in Hawai‘i, and with ongoing uncertainties regarding the effectiveness of current vaccines in preventing COVID-19 transmission, consistent, timely, and accurate data remains just as critical as it has been throughout this pandemic.** This measure will accordingly help to provide a critical subset of



consistent, timely, and accurate data necessary to ensure the success of our COVID-19 response and recovery efforts, including with regards to the reopening of our schools.

OHA does appreciate that sensitivities in data collection and governance are necessary to protect students' identities, and to prevent possible stigmatization of vulnerable demographics. Accordingly, OHA believes that the implementation of this measure should include consultation with communities who may be particularly vulnerable to or otherwise impacted by COVID-19 and potential outbreaks of the disease in our public school system. **In light of the disparate COVID-19 impacts on Native Hawaiians and Pacific Islanders (NHPI), OHA is willing to consult with the DOE and to facilitate the DOE's consultation with NHPI groups, such as the NHPI COVID-19 Response, Recovery, and Resilience Team, to ensure that appropriate sensitivities are applied in the reporting of data required under this bill.**

Accordingly, OHA urges the Committee to **PASS** SB811. Mahalo nui for the opportunity to testify.

**SB-811**

Submitted on: 3/16/2021 2:15:38 PM

Testimony for EDN on 3/18/2021 2:00:00 PM

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

Comments:

Support

WAY past due.

March 16, 2021

## **Testimony in support of SB 811, Relating to the Department of Education**

Honorable Chair Woodson and members of the Committee on Education:

I am writing in support of SB 811, which would require the Department of Education (DOE) to post on its website weekly reports of COVID-19 cases, providing a school's name, the date a positive COVID-19 test was reported to the school, and the date that the infected individual was last on the school campus.

With the present system of reporting cases by school complex, it is unclear which school is affected and questions have sometimes been raised about whether all cases at schools are included. The lack of more specific information has led to speculation and a sense of distrust and anxiety that can be seen in posts in social media and comments from the community.

In response to this bill, the DOE has raised concerns about panic and possible stigma arising from the disclosure of information. While these are concerns, however, hiding information will not make them go away. The DOE could use this as an opportunity to connect with the community. Frank disclosure about cases and how they are being handled can help the department to build trust, by allowing the public to see that it is being vigilant, and that it is taking steps to address COVID-19 cases.

In addition, concerns about stigma indicate that more, not less, information and education is needed so that schools and communities can better address COVID-19. As educational institutions that connect with many families, the schools are in a good place to help build understanding of COVID-19, how it can be spread to anyone, and what can be done to help stop its spread. Through education and proactive messaging, schools can address issues of stigma and help to bring communities together in efforts to combat COVID-19.

The information on COVID-19 cases required by this bill will help both policy makers and members of the public to better understand how COVID-19 is affecting each school and community and to make better decisions to keep schools and communities safer. Having more facts allows people to understand, to plan, and to move forward.

Please support this bill. Thank you for your consideration.

Sincerely,  
Lynn Otaguro  
Oahu, Hawaii

**SB-811**

Submitted on: 3/18/2021 12:24:20 AM

Testimony for EDN on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Support	No

Comments:

SB811

I support this bill. As schools consider reducing the 6' social distancing to bring more students back to school the DOE must follow some of their own Information.

This information was presented at the last Board of Education meeting by the superintendent

"Presentation on Department of Education Strategies for Safe Reopening of Elementary and Secondary Schools to More In-Person Learning for Fourth Quarter of 2020-2021 School Year."

One of the slides spoke to "Mitigating Community Spread." In order to do that you must be able to assess the level of risk in school communities. It states, " Risk introduction of case to school is dependent on the level of community transmission." Schools may provide in a person instruction through strict adherence to mitigation strategies."

Another slide entitled, "Guidance from CDC, U.S. DOE, DOH Strategies for safely reopening K-12 schools"

Several layers of safeguards should be implemented to reduce the spread of disease in the school setting. For optimal protection, a combination of the following mitigation strategies should be emphasized:

- Universal and correct wearing of masks
- Physical distancing (to the greatest extent possible)
- Hand-washing and respiratory etiquette
- Cleaning and maintaining healthy facilities, including ventilation improvements
- Contact tracing in combination with isolation and quarantine, in collaboration with state Department of Health

- Staying home when not feeling well

Both the DOH and DOE have denied public access to COVID cases identified BY SCHOOL. Assessing the level of risk in communities means you need to know the rate of transmission in that community. In order to do that assessment, we need to know the rate in the community and by school.

We also need to know how the multiple strategies are going to be used and what strategies are going to be used. The 6' social distancing is still a bone of contention. I will address that later.

Identification by complex is meaningless information. Think of how many schools are in each district mixed with grade level, elementary, middle and high school.

This is not transparency, it is smoke and mirrors.

This creates public distrust and denies families and teachers the data to make decisions on their own behalf.

It has been consistently said that this information is HIPAA and FERPA protected, by both the DOH and DOE.

In an audit completed as requested by the Senate Committee on COVID, the audit specifically opposed their stance and denied that this information, as requested, is prohibited.

The 6' distancing vs 3' or less debate.

Recent studies have been either in support of decreasing the distance. The most recent publication being touted to support this is

Effectiveness of three versus six feet of physical distancing for controlling spread of COVID-19 among primary and secondary students and staff: A retrospective, state-wide cohort study

Polly van den Berg, MD, Elissa M Schechter-Perkins, MD, MPH, Rebecca S Jack, MPP, Isabella Epshtein, MPP, Richard Nelson, PhD, Emily Oster, PhD, Westyn Branch-Elliman, MD, MMSc

Clinical Infectious Diseases, ciab230, <https://doi.org/10.1093/cid/ciab230>

Published: 10 March 2021

In the full version "Discussion" they address the study's limitations, as follows. Also keep in mind this study Was in the Massachusetts school system, quite different from ours.

Our study was limited by lack of complete data on potential cases among students and school staff; only cases reported to the state were able to be included in our analysis, thus it is possible that some cases may have been missed. However, it is unlikely that cases were differentially missed in districts with 3 versus 6 feet, mitigating the impact of this limitation on our main study finding. We also did not have detailed contact tracing data available, and so were not able to determine if cases in students were due to transmissions that happened within the school environment or independent introductions from cases acquired in the community. During the study period, active surveillance programs were rare, and thus we were not able to identify asymptomatic cases that may have resulted from in-school transmission, or to measure the effectiveness of this intervention as a tool for controlling SARS-CoV-2 spread in school settings.

Additionally, we were not able to measure the impact of physical distancing stratified by school type (elementary, middle, high) or age group. Thus, it is possible that the intervention may be more effective in one school type or age group, however, the vast majority of the districts included in the study (98%) adopted the same distancing policy,

suggesting that findings are broadly applicable. We were not able to fully exclude a small benefit of greater physical distancing requirements among student cases, however, due to our large sample size, we can conclude that more restrictive physical distancing policies would not have substantial impact on preventing cases in students attending in-person schooling. It is possible that districts that officially allowed  $\geq 3$  feet of distancing between students ultimately succeeded in attaining more distance between students, and our methods were only able to capture official policy, not real-world implementation of the policy. We also were not able to examine how lower distancing policies may have impacted school closures; it is possible that districts with lower distancing requirements closed more frequently, or required more quarantines, due to how SARS-CoV-2 exposures are defined. Finally, we were not able to fully evaluate the impact of other types of infection control interventions, due to a lack of variation across the state. In particular, we were not able to examine the impact of universal masking due to nearly 100% adoption of this intervention, however, data from other sources and other settings clearly highlights the importance of masking as a mitigation measure and that mask compliance in school settings is high [4,25].

The CDC continues to review studies regarding the social distancing debate.

In a recent article, the above study is referenced. The titles do not do the story justice. CDC considers shortening Covid social distancing recommendations for schools to 3 feet, director says

PUBLISHED WED, MAR 17 2021 12:20 PM EDT UPDATED WED, MAR 17 2021 3:51 PM EDT Amanda Macias

“There has been one study that was published late last week that demonstrated in Massachusetts where there is generally 100% mask-wearing that 3 feet was actually safe,” she said. The agency is reviewing several other unpublished studies on shorter social distancing guidelines as it revises its own recommendations, she said.

When pressed on the timeline for revising the agency’s school guidance, Walensky, who said she’s been homeschooling her three children throughout the pandemic herself, said the CDC was still “actively looking at those additional studies.”

“We are looking to update our guidance,” Walensky said, adding, “I am entirely with you as that we need to get our children back [to school].”

The new study, published in *Clinical Infectious Diseases*, compared infection rates of Covid-19 in Massachusetts public schools with different physical distancing requirements. The research suggests that 3 feet may be as safe as 6 feet if everyone is masked.

To wrap my testimony up, it is time for transparency. I ask, "What are they afraid of?"