



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

**Date:** 02/03/2021

**Time:** 03:00 PM

**Location:** 229

**Committee:** Senate 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 Hawaii Department of Education (Department) respectfully provides comments on SB 811.

The Department plays an important role in helping the state recover from the effects of the coronavirus disease 2019 (COVID-19) and works to balance an individual's right to privacy and public safety when it comes to publicly sharing case information. As part of this effort, the Department currently shares case information 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 Hawaii 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 school or worksite within 14 days of being diagnosed. Anything beyond that has no impact on Department students, staff or facilities.

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 school disruptions due to the increased level of inquiries beyond the immediate school community. However, the 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).



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 SENATE COMMITTEE ON EDUCATION

RE: SB 811 - RELATING TO THE DEPARTMENT OF EDUCATION

WEDNESDAY, FEBRUARY 3, 2021

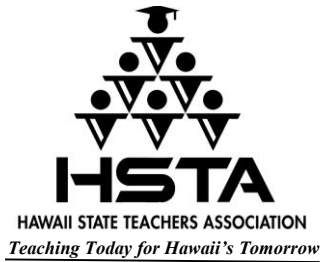
COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Michelle Kidani, and Members of the Committee:

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



Corey Rosenlee  
President

Osa Tui Jr.  
Vice President

Logan Okita  
Secretary-Treasurer

Wilbert Holck  
Executive Director

decisions to the principals, including informing their respective school communities about positive cases. While we are aware, anecdotally, about some school principals 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.

**SB-811**

Submitted on: 1/30/2021 12:16:22 PM

Testimony for EDU on 2/3/2021 3:00:00 PM

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

Comments:

Both the DOH and DOE have denied public access to COVID cases identified BY SCHOOL.

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.

**SB-811**

Submitted on: 2/1/2021 8:52:55 AM

Testimony for EDU on 2/3/2021 3:00:00 PM

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

Comments:

February 1, 2021

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

Honorable Chair Kidani and members of the Committee on Education:

I am writing in support of SB 811, which would require the Department of Education 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 cases at a particular school are included. Having information that specifies the school will help both policy makers and members of the public to better understand how COVID-19 is affecting each school and community, and will help them to use this information in making decisions.

In times of crisis, the public depends on governmental agencies to be transparent and provide accurate and complete information. Anything less creates insecurity and distrust. Please support this bill.

Thank you for your consideration.

Sincerely,

Lynn Otaguro

Oahu, Hawaii