



SB811
RELATING TO THE DEPARTMENT OF EDUCATION
Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

Pepeluali 17, 2021

10:00 a.m.

Hālāwai Keleka‘a‘ike

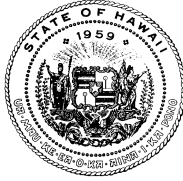
The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB811, a measure that would require the Department of Education (DOE) to publish a weekly report on schools with COVID-19 cases. OHA works to improve the wellbeing of our Native Hawaiian beneficiaries, who may be experiencing or at risk of experiencing 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.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY ONLY

Testimony COMMENTING on SB 811
RELATING TO THE DEPARTMENT OF EDUCATION

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 2/17/2021

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.¹

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,
 - Identify the period of infectiousness of the case, last date on campus, and the window of
15 exposure for close contacts,
16

¹ <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
HONOLULU, HAWAII 96804

Date: 02/17/2021
Time: 10:00 AM
Location: Via Videoconference
Committee: Senate Judiciary

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.



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Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY

RE: SB 811 - RELATING TO THE DEPARTMENT OF EDUCATION

WEDNESDAY, FEBRUARY 17, 2021

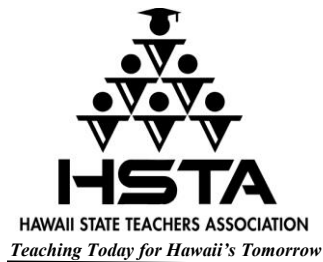
COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Rhoads, 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 HDOE 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 sending letters about positive cases to teachers and staff, we were unable to



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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: 2/11/2021 4:07:41 PM

Testimony for JDC on 2/17/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Gerard Silva | Individual | Oppose | No |

Comments:

Your Wasting Time and Money on the Flue witch we have every year and the Kids are the ones with the strongest emunity to Diease. This is acording to thousands of Doctors reports that I have read from all over the world including the United States.

SB-811

Submitted on: 2/11/2021 7:20:33 PM

Testimony for JDC on 2/17/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| cheryl B. | Individual | Support | No |

Comments:

Support

And this should begin immediately. It is past due.

February 14, 2021

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

Honorable Chair Rhoads and members of the Committee on Judiciary:

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. 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.

At the recent Committee on Education hearing, in answer to the DOE's objections to disclosure of this information because of concerns of stigma and people contacting the schools, senators suggested that providing information about cases by school and how the school is handling the situation, will help with these issues. I agree. Anyone who looks at the social media posts and listens to people in the community can see that the lack of clarity of the complex-based reports raises the level of anxiety and confusion. Transparency and information about how the department is taking care of an outbreak can help to assure the public and build trust.

In addition, concerns about stigma indicate that more, not less, information and community education is needed so that we, as a state, can better address COVID-19. As educational institutions with connections with many families, the schools are in a good place to help our state build understanding of COVID-19 and how it is spread. By building understanding of how anyone can contract the disease, schools can help to end any stigma and to help bring us together as communities to address the issues.

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

SB-811

Submitted on: 2/15/2021 9:34:02 PM

Testimony for JDC on 2/17/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| 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.