



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

**Date:** 03/16/2022

**Time:** 03:00 PM

**Location:** CR 229 & Videoconference

**Committee:** Senate Higher Education  
Senate Education

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Interim Superintendent of Education

**Title of Bill:** HB 1848, HD2 RELATING TO STUDENT JOURNALISM.

**Purpose of Bill:** Establishes freedom of speech and freedom of the press protections for student journalists producing school-sponsored media or university-sponsored media unless subject to certain exceptions. Effective 7/1/2050. (HD2)

**Department's Position:**

The Hawaii State Department of Education (the Department) respectfully offers comments on HB 1848, HD2.

The Department strongly values student voice and encourages students to be fully engaged in their own learning, including civic engagement.

The Board of Education currently has two policies that directly address HB 1848, HD2.

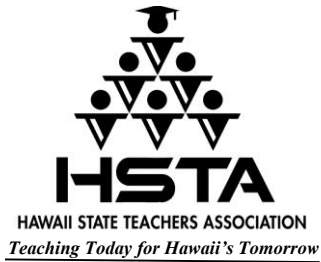
BOE Policy 101-1 Student Code of Conduct, acknowledges that students have Freedom of Expression and Communication. It states that "Students shall have the right to hear and express publicly, various points of view on subjects without fear of reprisal or penalty."

BOE Policy 101-9, School-Sponsored Student Publications, notes that "students of the public schools have the right of expression in official, school-sponsored, student publications." Further, "student publications are considered, in part, a laboratory for learning, as students are still in the process of learning the skills and processes of effective and responsible communication, and are considered to be still in need of

guidance and supervision.”

Given the expanded opportunities to promote student agency, it is critical that all schools continue to balance the intellectual and social development of their students with freedom of expression.

Thank you for this opportunity to provide testimony on HB 1848, HD2.



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TESTIMONY BEFORE THE SENATE COMMITTEE ON EDUCATION AND  
THE COMMITTEE ON HIGHER EDUCATION

RE: HB 1848. HD2 - RELATING TO STUDENT JOURNALISM

WEDNESDAY, MARCH 16, 2022

OSA TUI, JR., PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Kidani, Chair Kim, and Members of the Committees:

The Hawaii State Teachers Association **supports HB 1848, HD2**, relating to student journalism. This bill establishes freedom of press protections for student journalists producing school-sponsored media or university-sponsored media unless subject to certain exceptions.

Research says, students who work on high school media learn to think critically, research topics, conduct interviews, write clearly for an audience and work together as a team. In schools with strong journalism programs, they also learn how a free and responsible press can improve their school communities by informing, entertaining and influencing their audience. Research also shows, those with student media experience get better high school grades overall, outscore others on ACT tests, and earn higher grades in college. Not only do students who participate in school media improve their basic academic skills, they also understand more than other students about their rights and responsibilities in a democracy. It gives students a voice and allow them to exercise their constitutional right of free speech

Hawaii needs a law that protects the First Amendment rights of student journalists and allows them the real-world learning that comes from making the decisions that must be made to produce a student-run newspaper.

To support our teachers and students, the **Hawaii State Teachers Association urges you to pass this bill.**



PO Box 2692 Honolulu, Hawai'i 96803  
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**President:**  
Jay Hartwell

March 13, 2022

**Board of Directors:**

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**Executive Director:**

Sherry Goya  
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Dear Chair Kidani, Chair Kim and Members of the Committees:

I am Jay Hartwell, President of the Hawaii Publishers Association, whose members produce magazines, newspapers, printed and online content for the state of Hawai'i. The Association urges you to approve HB1848 HD2, Relating to School Journalism.

For 53 years, the Newspaper in Education program and then the Hawaii Publishers Association has sponsored the annual Hawai'i High School Journalism Awards with support from the Honolulu Star-Advertiser and now the School of Communications at the University of Hawai'i at Mānoa.

We sponsor this competition, because we believe that high school journalism programs provide students with the best, hands-on opportunities to learn about research, fact-checking, and communication. We also believe that competing against other schools challenges student journalists to produce their best work.

Unfortunately, we don't always get to judge the best work, because some of the state's principals tell their students they can not publish stories because of concerns about the content. In other cases, student editors decide not to pursue stories they know will not be approved. How do you strive to be the best when you are not given a chance or know that you will NOT be given a chance?

The proposed bill protects the rights and clarifies the responsibilities of all those involved in journalism in Hawai'i public schools: the students, advisers, and administrators.

We respectfully request that you support this legislation to ensure students can have the best possible educational experience.

Sincerely,

Jay Hartwell  
President



**TESTIMONY IN SUPPORT OF HB 1848 - RELATING TO STUDENT JOURNALISM  
March 16, 2022**

The Student Press Law Center (SPLC) is an independent, non-partisan organization that, since 1974, has helped students of all ages participate in civic life and learn essential skills, ethics and values through the vehicle of journalism. Our hotline provides free legal services to student journalists and advisers. As such, we see daily the significant need for this legislation and urge your approval of HB 1848.

Hawaii's students want to tell the stories that matter to them, their peers and their communities, but for more than a generation they have come of age under a U.S. Supreme Court decision that has resulted in onerous censorship by school officials for reasons rooted not in journalistic integrity, the needs of students or the pursuit of truth, but in the discomfort of school administrators.

In *Hazelwood School District v. Kuhlmeier (1988)*, the Court held that a school may censor a student journalist when "reasonably related to legitimate pedagogical concerns." Unfortunately, many schools have interpreted this as justifying censorship for virtually any reason. Nationwide, SPLC has seen yearbooks censored because students wore MAGA shirts or the swim team wore bathing suits, journalists censored because their work spoke of graffiti visible to all students or of the drug use happening during school hours, and stories squelched because they reported on misconduct by school officials. Award-winning veteran teachers have been penalized, reassigned or terminated for refusing to force students to change or bury stories. Students have learned to self-censor and doubt their own instincts, thinking first of whether a story will be popular rather than if it is newsworthy, well-vetted, and true.

There are instances in which administrators must exert authority to keep their students safe and the school day orderly. HB 1848 protects that authority; school officials can step in, for example, when there are concerns about the legality of the student media or the media will be demonstrably disruptive to the school environment. HB 1848 simply provides clarity as to when administrators may step in, ensuring that everyone knows their rights and responsibilities under the law and helping Hawaii's schools fulfill their mission to produce the engaged thinkers ready to be our next generation of leaders.

Fifteen states<sup>1</sup> have enacted laws similar to HB 1848. After more than 100 combined years of history with these laws the verdict is clear; student press freedom laws do not impact school safety. In no state has there been an outbreak of unethical journalism or lawsuits. Not a single school has had a libel lawsuit.

Thank you for the opportunity to provide this testimony; if there are any questions about the legal issues surrounding student media censorship or how these laws have been received in other states, I would be happy to provide that to the committee. Thank you for your support of Hawaii's students, and HB 1848.

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<sup>1</sup>Arkansas, California, Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Vermont, Washington.

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March 11, 2022

Aloha, Senator Michelle N. Kidani, Chair; Senator Donna Mercado Kim, Vice Chair; members of the Committee On Education; and

Senator Donna Mercado Kim, Chair; Senator Michelle N. Kidani, Vice Chair; members of the Committee On Higher Education:

I am writing to express my **support** of HB1848 HD2 Related to Student Journalism.

I am a former Editor in Chief of Ka Leo O Hawaii (UH Manoa) and Ke Kalahea (UH Hilo), and former high school student journalist at the Trojan Times at Mililani High School.

We are in the midst of a period of American history where the role of journalists is both more important than ever, and yet under constant attack by both political and market forces. We need to be fostering the next generation of truth seekers, investigators, and storytellers to continue to function as a critical check on both government and corporate overreach, as well as to document the trials and triumphs of our local communities.

**Students need to experience first-hand the rights and responsibilities that come with sustaining a free press. Prior restraint is unacceptable at all levels of journalism practice.**

Certainly, freedom of the press and freedom of speech does not mean freedom from consequences. And student journalists need to have an objective and realistic understanding of the impact of the things they publish and broadcast. And that's where the experience and engagement of professional advisors are critical.

My tenure as editor of the then-daily Ka Leo ended after a newly implemented term limit by the UH Board of Publications. My student colleagues and I then launched an alternative campus paper. The dispute

over distribution of this alternative newspaper on campus ended up at the center of a First Amendment fight between us and the UH administration. We ultimately prevailed, but the conflict was not without its consequences, and our publication dissolved months later.

This experience, as a student as well as a journalist, is exactly the sort of real-world challenges tomorrow's journalists will face. Let us not inhibit their growth, whether to protect them or to protect "us."

Mahalo for your consideration.



Ryan Kawailani Ozawa

**HB-1848-HD-2**

Submitted on: 3/12/2022 2:28:31 PM

Testimony for HRE on 3/16/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cynthia Reves	Individual	Support	In Person

Comments:

My name is Cindy Reves and I am the adviser of McKinley High School’s student newspaper, The Pinion, and the Hawaii state director for the Journalism Education Association. I support HB1848 HD2 to protect the First Amendment rights of student journalists in Hawaii.

Laws just like this one already exist in 15 states and are being introduced in over a dozen more. This bill has educational value and is supported by the Journalism Education Association, the National Council of Teachers of English, and the Association for Education in Journalism and Mass Communication. It is supported by those whose ranks we are preparing our students to join, such as the American Society of News Editors and the Society of Professional Journalists. It has legal support from the American Bar Association and the Student Press Law Center.

As a journalism adviser, I teach my student journalists press law, news value, and journalistic ethics. I tell them about the 1969 case of Tinker vs. Des Moines Independent Community School District, where the Supreme Court said neither student nor teacher “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

McKinley’s student staff write about what they feel our community needs to know. When they need an adult’s advice, they come to me. Student editors make the publication decisions. I tell them that the best defense against censorship is good journalism. At McKinley, I am lucky that my administrator understands all this and supports what I do with the student newspaper.

However, I also tell my students that, in 1988, the Supreme Court restricted the First Amendment rights of one group of students, student journalists. If McKinley gets a new administrator or outside pressure causes our current administrator to reconsider his position, current law allows him great latitude to censor our student journalists. Hawaii needs a law that protects the First Amendment rights of student journalists and allows them the real-world learning that comes from making the decisions that must be made to produce a student-run newspaper.

Many worry that this bill will put schools and/or student journalists in legal danger. There is no evidence of this, according to student press law experts. Many also worry that student journalists are not mature enough for this responsibility. The work of my students, and student journalists throughout the country, proved the opposite. As our community lost physical contact due to the coronavirus pandemic, The Pinion staff continued to report remotely to cover our community during this unprecedented time.



What is true, however, is that, without this bill, administrators are censoring the First Amendment rights of student journalists in Hawaii. While my students do not face censorship, in my role with JEA, I hear stories of Hawaii administrators whose actions show they do not trust student journalists and their advisers.

- A high school administrator did not allow the student media to run an opinion piece about the n-word. Here are the last sentences of that piece: “The n-word should always be a huge social taboo because of its historical origin and usage; however, society is beyond the point of that. If certain individuals want to continue using the word, then the general public must learn how to comprehend its given context to react in an appropriate manner.” This is a nuanced reflection on an issue that matters.
- A student journalist wanted to write a criticism of program that the school is very proud of and were told they might not be allowed to publish it.
- A high school administrator didn’t want editorials published unless they were in Pro/Con format. Two that gave the adviser and staff the most difficulty: an editorial about how a student hates Thanksgiving and an editorial criticizing Trump’s cabinet picks.
- A high school administrator asked the following questions during prior review with the adviser: “Why is this phrased this way? Why is this article about things that Trump has done called a ‘quick and dirty run down’? Some of these measures didn’t pass so why report on them? Why is this statistic phrased this way? Why is this the title of this article?”
- In a high school that has prior review, the administrator held on to the paper so long that the student staff decided it was too late to send it to the printer, so they published that issue online only.
- A high school journalism adviser had been attending meetings which included discussion of student press rights legislation but stopped attending for fear of angering administration
- A high school newspaper is required to produce a “community issue,” which is public relations, not journalism.
- A college newspaper didn’t cover an issue for fear it would get their adviser in trouble.

What is also true is that student journalists serve an important role in our democracy. If they see injustice at their school and do not report on it, who will? If the leaders in Hawaii truly value student voice and the student press, they have to raise the bar and allow Hawaii’s student journalists to really practice journalism. My student journalists at McKinley will do the hard work because they know a well-reported story won’t get killed simply because an administrator doesn’t like it. That’s not how journalism works and that’s not how our schools should work.

**HB-1848-HD-2**

Submitted on: 3/14/2022 2:06:56 PM

Testimony for HRE on 3/16/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shane Kaneshiro	Individual	Support	In Person

Comments:

**My name is Shane Kaneshiro. I am testifying in my capacity as a student journalist at McKinley High School and am writing in support of SB214, the Hawaii Student Journalism Protection Act, to restore First Amendment protection to scholastic journalists.**

**At McKinley High School, our newspaper, the Pinion, the staff always share our story ideas with one another during our brainstorming process. When we decide on what our stories will be, we consider what our community wants and needs to know about. We are lucky that our principal understands all this and supports us. But we don't want to be lucky; we want to be protected. There may be some concern that this bill is giving too much control to young people, but this law does not protect unprotected speech. What it does is protect the rights and clarify the responsibilities of all those involved in journalism in public schools, the students, advisers, and administrators. OUR voice matters. We tell the school what is happening from the perspective of the students, not the adults. We need to be able to do our job. This bill allows us to do that. Please support it.**

**HB-1848-HD-2**

Submitted on: 3/12/2022 12:53:58 AM

Testimony for HRE on 3/16/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jennifer Azuma Chrupaluk	Individual	Support	Written Testimony Only

Comments:

If Hawai'i is a part of the U.S., why isn't this covered under the first amendment of the national constitution? Seeing bills like this being implemented makes me want to further investigate what other injustices are not already covered in Hawai'i. The Freedom of Speech is supposed to be guaranteed and protected nationwide.

**HB-1848-HD-2**

Submitted on: 3/15/2022 2:27:42 PM

Testimony for HRE on 3/16/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
jerome linear	Individual	Support	In Person

Comments:

My name is Jerome Linear. I am testifying in my capacity as a student journalist at McKinley High School and am writing in support of SB214, the Hawaii Student Journalism Protection Act, to restore First Amendment protection to scholastic journalists. I want all Hawaii student journalists protected. They should be able to chase and report the truth to the people in confidence. Schools are supposed to help prepare students for the future. How is letting administrators get away with killing articles they don't agree with helping our future journalists? This bill will create better education and a better democracy.

**HB-1848-HD-2**

Submitted on: 3/15/2022 1:52:39 PM

Testimony for HRE on 3/16/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Althea Cunningham	Individual	Support	In Person

Comments:

**My name is Althea Cunningham. I am testifying in my capacity as a high school reporter at McKinley High School. I'm writing in support of HB 1848, the Hawaii Student Journalism Protection Act, to restore First Amendment protection to scholastic journalists.**

**I come here not only as a second-year student reporter but also as a senior JROTC cadet.**

**In newswriting class, I have been taught press law, news value, and journalistic ethics. In JROTC, I have been taught leadership, integrity, and the law. I know the constitution protects our free speech, but what about the free speech of the future generation?**

**We are very lucky at McKinley that our principal and advisor understand and want to help us grow as journalists, even if they don't agree or like what we write, so long as we do it ethically.**

**But that's here at McKinley, I want all Hawaii student journalists protected. They should be able to chase and report the truth to the people in confidence. Schools are supposed to help prepare students for the future. How is letting administrators get away with killing articles they don't agree with helping our future journalists?**

**That is not the ethics and law I was taught.**

**That's not how journalism works, and that's not how our schools should work.**

**This bill will create better education and a better democracy.**