

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
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To: House Committee on Education

From: Cheryl Kakazu Park, Director

Date: March 12, 2024, 2:30 p.m.
State Capitol, Conference Room 309

Re: Testimony on S.B. No. 2475, S.D. 2
Relating to Education

Thank you for the opportunity to submit testimony on this bill, which would establish a Harm to Students registry to be administered by the Department of Education (DOE). The Office of Information Practices (OIP) testified on a previous version of this bill to offer a technical amendment. That amendment was made in the S.D. 2 version of the bill and OIP has no further concerns regarding this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2475, S.D. 2, RELATING TO EDUCATION.

BEFORE THE:

HOUSE COMMITTEE ON EDUCATION

DATE: Tuesday, March 12, 2024 **TIME:** 2:30 p.m.

LOCATION: State Capitol, Room 309 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Anne T. Horiuchi, Deputy Attorney General

Chair Woodson and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill establishes a "Harm to Students Registry" (Registry) for all prekindergarten through grade twelve institutions operating in the State, to be administered by the Department of Education (DOE). Additionally, the bill: (1) requires schools to complete any investigation into employees who have pending allegations of harming students, regardless of employment status; (2) requires schools to consult with the Registry before authorizing prospective employees or volunteers to interact with students; (3) requires schools to share information on ongoing or concluded investigations of infliction of harm to a student when requested by another institution; (4) establishes an appeal process for individuals who request removal from the Registry; (5) establishes qualified immunity for employers who provide good faith information or opinions on any current or former employee's employment performance; (6) requires the surrender of teaching licenses of certain individuals who have resigned or retired during a pending investigation into allegations of sexual assault or sexual harassment; (7) requires the Hawaii Teacher Standards Board to report surrendered licenses to the National Association of State Directors of Teacher Education and Certification; and (8) exempts information or employment documents related to the

Registry obtained from non-governmental education institutions from disclosure under chapter 92F, Hawaii Revised States (HRS).

The Department previously commented on H.B. No. 2043, a bill which similarly creates a "Harm to Students Registry." That bill, as well as the instant bill, referenced the Penal Code in defining "inflicted harm on a student," which created a situation where a person could be listed on the Registry for actions defined as criminal under the new statute, but could be exonerated in a court of law for the same actions. This was a significant concern to the Department.

At the request of the DOE, the Department worked with the DOE on revising H.B. No. 2043, H.D. 1, and those efforts are reflected in H.B. No. 2043, H.D. 2. The House Committee on Finance subsequently amended that bill in H.B. No. 2043, H.D. 3, to change the number of positions established within the DOE to manage the Registry to an unspecified number.

The content of H.B. No. 2043, H.D. 3, addresses the Department's concerns expressed in previous testimony on H.B. No. 2043 and on the instant bill. Specifically, the Penal Code is no longer referenced in defining "inflicted harm on a student." The Department respectfully requests that sections 2 through 6 of this bill, from page 3, line 5, through page 16, line 4, be replaced with sections 2 through 5 of H.B. No. 2043, H.D. 3, from page 2, line 18, through page 20, line 10, of that bill.

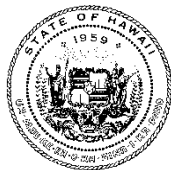
If these revisions are made, the Department also suggests the following revisions:

- Removing the reference to 302A-1002(a), HRS, on page 17, line 11, in section 7, by replacing "section 302A-1002(a)" with "section 302A-___."
- Removing the reference to 302A-1002, HRS, on page 18, lines 6-7, in section 7, by replacing "section 302A-1002" with "section 302A-___."

The Department also suggests replacing the word "surrender" with the word "forfeit" on page 17, line 19, in section 7, and replacing the word "surrender" with the word "forfeiture" on page 18, line 2, in section 7, to use terminology currently used in section 302A-805(c), HRS.

Finally, the Department suggests that a mechanism be added for removing names from the Registry based upon new information.

Thank you for the opportunity to provide comments on this bill.



STATE OF HAWAII

HAWAII TEACHER STANDARDS BOARD

650 IWILEI ROAD, SUITE 268

HONOLULU, HAWAII 96817

WRITTEN TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION

PERSON TESTIFYING: Felicia Villalobos, Executive Director, on behalf of the Hawai'i Teacher Standard Board

DATE: March 12, 2024

TIME: 2:30PM

LOCATION: Conference Room 309 and Video Conference

TITLE OF BILL: SB2475 SD2 RELATING TO EDUCATION, DOE; State Public Charter School Commission; HTSB; Executive Office on Early Learning; Private Schools; Harm to Students Registry; Employees; License Revocation; Appeal; Qualified Immunity

PURPOSE OF BILL: (1) Establish a registry for all prekindergarten through grade twelve educational institutions within the State to report instances of acts that demonstrate harm to students by school personnel or volunteers; (2) Establish qualified immunity for any employer that provides any good-faith information or opinion on a current or former employee's employment performance; and (3) Require the surrender of teaching licenses of certain individuals who have resigned or retired during a pending investigation into allegations of sexual assault or sexual harassment.

POSITION: Support

Chair Woodson, and Members of the Committee;

Hawai'i Teacher Standards Board ("HTSB") supports the efforts to establish this Harm to Students Registry, that also require schools, departments, and institutions to complete any investigation into employees who have pending allegations of harming students regardless of employment status.

Although this bill states "institutions" will be required to complete investigations, for clarity, we suggest that the definition contained in the bill be better defined as written below, by inserting the words "public or private".

"Institution" means any public or private educational institution that serves any combination of students from grades prekindergarten through grade twelve within the State.

If an individual chooses to resign or retire before an investigation into the allegations listed in this bill, the (public or private) institution will inform them in writing and obtain the individual's signature indicating their consent to the surrender of their teaching license, if they choose to resign or retire before the completion of an investigation. HTSB has a process in place where we would then submit an individual's name who surrenders their license with the reasons for investigation, to National Education of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse, and we will definitely continue with this reporting process.

The department (HIDOE) already has the ability to remove an individual from the classroom or school while an investigation is being completed, which serves as a safeguard towards further harm to students, and we think this process should be continued.

The Hawai'i Teacher Standards Board thanks you for hearing our testimony.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/12/2024

Time: 02:30 PM

Location: 309 VIA VIDEOCONFERENCE

Committee: House Education

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB 2475, SD2 RELATING TO EDUCATION.

Purpose of Bill: Establishes a harm to students registry for all prekindergarten through grade 12 institutions operating in the State to be administered by the Department of Education. Establishes certain exceptions for information shared on the registry. Requires schools to complete any investigation into employees who have pending allegations of harming students, regardless of employment status. Requires schools to consult with the registry before authorizing prospective employees or volunteers to interact with students. Requires schools to share information on ongoing or concluded investigations of infliction of harm to a student when requested by another institution. Establishes an appeal process for individuals who request removal from the Harm to Students Registry. Establishes qualified immunity for employers who provide good faith information or opinions on any current or former employee's employment performance. Requires the surrender of teaching licenses of certain individuals who have resigned or retired during a pending investigation into allegations of sexual assault or sexual harassment. Requires the Hawaii Teacher Standards Board to report surrendered licenses to the National Association of State Directors of Teacher Education and Certification. (SD2)

Department's Position:

Thank you for the opportunity to provide written testimony on SB 2475, SD 2. The Hawaii State Department of Education (Department) supports this measure but prefers language in HB 2043, HD 3 passed by the House of Representatives, as it provides greater protections of an individual's due process rights and better ensures a more efficient process for the employee.

The Department agrees with the legislature that creating a harm-to-students registry that is accessible by any educational institution serving any combination of students from grades pre K-12

within the State of Hawaii will help prevent the employment of individuals who harm children.

Increasing the ability of both private and public pre K-12 educational institutions to communicate and provide vital information to consider in rendering employment decisions is critically important to maintaining healthy and safe learning environments for all of Hawaii's keiki.

Thank you for the opportunity to provide written testimony on SB 2475, SD2.

JOSH GREEN, M.D.
GOVERNOR



CATHY K. IKEDA
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
('AHA KULA HO'ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1164 Bishop Street, Suite 1100, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: SB 2475 SD2 Relating to Education
DATE: March 12, 2024
TIME: 2:30 P.M.
COMMITTEE: Committee on Education
ROOM: Conference Room 309 & Videoconference
FROM: Ed Noh, Executive Director
State Public Charter School Commission

Chair Woodson, Vice-Chair La Chica, and members of the Committee:

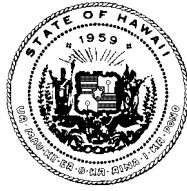
The State Public Charter School Commission ("Commission") appreciates the opportunity to offer **SUPPORT on SB 2475 SD2** which creates a registry of all prekindergarten through grade 12 educational institutions within the State to report instances of acts that demonstrate harm to students by school personnel or volunteers; establish qualified immunity for employers who provide good faith information or opinion on a current or former employee's job performance; and require the surrender of teaching licenses of certain individuals who have resigned or retired during a pending investigation into allegations of sexual assault or sexual harassment.

The Commission supports the efforts of the Legislature in providing this registry which would serve as an additional safety measure that would protect all public school students, including charter school and prekindergarten students. The inclusion of the Commission executive director or designee on the temporary commission for appeals is appreciated as it allows charter school representation in this highly sensitive process.

The Commission is available to work with this committee, the DOE, our public charter schools, and all other stakeholders in moving this legislation forward.

Thank you for the opportunity to provide this testimony.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

March 11, 2024

TO: The Honorable Representative Justin H. Woodson, Chair
House Committee on Education

FROM: Cathy Betts, Director

SUBJECT: **SB 2475 SD2 – RELATING TO EDUCATION.**

Hearing: March 12, 2024, 2:30 p.m.
Conference Room 309, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the measure, provides comments, and defers to the Department of Education, the Hawaii Teachers Standards Board, the Department of the Attorney General, and the Department of Human Resources & Development.

PURPOSE: This bill establishes a harm to students registry for all prekindergarten through grade 12 institutions operating in the State to be administered by the Department of Education. Establishes certain exceptions for information shared on the registry. Requires schools to complete any investigation into employees who have pending allegations of harming students, regardless of employment status. Requires schools to consult with the registry before authorizing prospective employees or volunteers to interact with students. Requires schools to share information on ongoing or concluded investigations of infliction of harm to a student when requested by another institution. Establishes an appeal process for individuals who request removal from the Harm to Students Registry. Establishes qualified immunity for employers who provide good faith information or opinions on any current or former

employee's employment performance. Requires the surrender of teaching licenses of certain individuals who have resigned or retired during a pending investigation into allegations of sexual assault or sexual harassment. Requires the Hawai'i Teacher Standards Board to report surrendered licenses to the National Association of State Directors of Teacher Education and Certification. (SD2)

The Committees on Education and Labor and Technology (SD1) amended the measure by:

- (1) Deleting a reference to chapter 350, Hawaii Revised Statutes, relating to child abuse under the purview of the Department of Human Services;
- (2) Prohibiting the inclusion of personally identifiable information of a student within information shared between educational institutions regarding the Harm to Students Registry;
- (3) Exempting any information or employment documents related to the Harm to Students Registry obtained from a non-governmental educational institution from the requirements of the Uniform Information Practices Act;
- (4) Clarifying that the Department of Education is required to complete an investigation of an employee, rather than an individual;
- (5) Requiring institutions to complete an investigation upon notification of an allegation of infliction of harm to a student;
- (6) Requiring public schools to inquire with the Department of Education to confirm whether a candidate for employment or prospective volunteer at the institution is listed on the Harm to Students Registry;
- (7) Applying definitions of terms defined in section 302A-1002, Hawaii Revised Statutes, to new language establishing the Harm to Students Registry in other sections of the Hawaii Revised Statutes;
- (8) Inserting language in chapter 302L, Hawaii Revised Statutes, to extend the provisions of this measure to early learning programs;
- (9) Clarifying that inclusion on the Harm to Students Registry for certain persons paid under the salary scheduled contained in bargaining unit (5) shall occur only after an investigation conducted results in a final finding that the person engaged in acts or omissions that resulted in the infliction of harm to a student;
- (10) Requiring any individual who retires or resigns from teaching before the completion of the investigation to surrender their Hawaii teaching license;
- (11) Requiring the Hawaii Teacher Standards Board to report a surrendered license to the National Association of State Directors of Teacher Education and Certification; and
- (12) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The Committee on Ways and Means (SD2) made additional amendments:

- (1) Clarifying that certain information shall be exempt only from the disclosure requirements of the Uniform Information Practices Act (Chapter 92F, Hawaii Revised Statutes);
- (2) Providing that the third member of the Superintendent of Education's temporary commission shall be a representative of private schools located in the State, as invited by the superintendent; provided that the right of first refusal to serve on the commission shall go to the Executive Director of the Hawaii Association of Independent Schools or the Executive Director's designee;
- (3) Providing that the Department of Education may share information from the harm to students registry with the Department of Human Services;
- (4) Deleting language relating to exemptions from criminal liability for good faith reporters;
- (5) Deleting language that would have required that a person's resignation or retirement during an investigation automatically result in the revocation of the person's teaching license and placement of the person on the harm to student registry;
- (6) Clarifying teacher license surrender provisions relating to any person who retires or resigns before the completion of an investigation; and
- (7) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

DHS appreciates the SD2 amendment authorizing that DOE may share information with DHS as DHS conducts risk and suitability assessments of individuals who may be in the human care workforce serving vulnerable children or adults or in child care settings. DHS Child Welfare Services Branch (CWS) and Adult Protection & Community Services Branch (APS) investigate reports of abuse and neglect of minors and vulnerable adults and review applications to become resource caregivers. CWS also provides information to the Family Court regarding the background of petitioners seeking the adoption of a minor.

The Child Care Licensing Program (CCL) conducts background and suitability reviews for individuals interested in becoming child care providers and investigates violations of child care licensing rules. Additionally, if injuries occur in a private regulated child care setting, CWS and CCL both conduct investigations of the reported injury.

Thank you for the opportunity to provide comments on this measure.



TO: The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

FROM: Philip Bossert, Executive Director
Hawaii Association of Independent Schools

RE: **SB 2475 SD2 - Relating to Education
In Strong Support**

DATE: Tuesday, March 12, 2024
2:30 p.m.; Conference Room 309

Aloha Chair Woodson, Vice Chair La Chica and members of the Committee:

The Hawaii Association of Independent Schools (HAIS) and its subsidiary, the Hawaii Council of Private Schools (HCPS), strongly supports SB 2475 SD2. The establishment of a Harm to Students Registry in Hawaii will close a significant loophole in the hiring of school personnel that allows employees who have harmed students – in particular sexually abusing students – and released from one institution to seek employment at a new school and cause harm once again. There are multiple cases of this happening in Hawaii in past years.

Unfortunately, it is often the case that an institution, in order to avoid tarnishing its reputation with a sexual abuse incident becoming public, will simply terminate the offending person and not report it to the police. Likewise, parents are often reluctant to put their children through the additional trauma of having to testify in public about a sexual abuse incident that they have been a victim of. Repeat offenders are thus able to move undetected from one school to another and continue to harm students.

This registry, similar to ones in Texas and New Jersey, would require schools that have released an employee for harming a student to report that employee and the incident to the registry. And it will require any public, charter or private school in the state to check this registry before offering employment to a new employee. If the applicant's name is found to be on the registry, then that person should not be allowed to work in a school.

The creation of this statewide registry for all PK-12 schools will help to prevent the repeated harm that such persons cause. I urge you to support this bill and help to close this loophole. I would be happy to provide further clarity should you need additional information.

Thank you for the opportunity to provide this testimony.

TO: Representative Justin H. Woodson, Chair
Representative Trish La Chica, Vice Chair
House Committee on Education

FROM: Robert G. Peters, Chair
Early Learning Board

SUBJECT: Measure: S.B. 2475 SD 2 – RELATING TO EDUCATION

DATE: Tuesday, March 12, 2024
TIME: 2:30 PM
LOCATION: VIA VIDEOCONFERENCE
Conference Room 309

Early Learning Board's Position: Support

Protecting children against harm is paramount in all educational settings and the Early Learning Board, governing Board for the Executive Office on Early Learning (EOEL), supports SB 2475 SD 2 which seeks to enhance children's safety.

ELB expects EOEL to provide high-quality early learning programs and services to all keiki across the State. Fundamental components of a high-quality program include safe and nurturing environments and trusting and caring adults. This bill would streamline information about individuals who have perpetuated harm against children, making that information more accessible across schools and potentially departments.

Classroom and administrative staff of the EOEL Public Prekindergarten program are employees of the Department of Education (HIDOE) as an attached agency and ELB defers to HIDOE on the provisions of the bill related to implementation.

Mahalo for the opportunity to provide testimony on this measure.



Kamehameha Schools®

House Committee on Education

Time: 2:30 p.m.

Date: March 12, 2024

Where: Conference Room 309

TESTIMONY

By Dr. Wai‘ale‘ale Sarsona
Kamehameha Schools

RE: SB 2475, SD2, Relating to Education

E ka Luna Ho‘omalua Woodson, ka Hope Luna Ho‘omalua La Chica, a me nā lālā o ke Kōmike Ho‘ona‘auao o ka Hale o nā Lunamaka‘āinana, aloha kākou! My name is Dr. Wai‘ale‘ale Sarsona, Vice President of Hi‘ialo at Kamehameha Schools.

Kamehameha Schools **supports** SB 2475, SD2, which establishes a Harm to Students Registry for all prekindergarten through grade twelve institutions operating in the State to be administered by the Department of Education. We believe that student safety and well-being must always be at the center and this bill will help educational institutions have access to information about applicants who were found to cause harm to our keiki in their previous employment at an educational institution.

He lei pōina ‘ole ke keiki. A child is a lei that is never forgotten. We firmly believe that our keiki are indeed our most beautiful lei and deserve our full support and attention. We also know that we need to get this right and we are grateful for the opportunity to be involved in this process.

Founded in 1887, Kamehameha Schools is an educational organization striving to restore our people through education and advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.

‘A‘ohe hana nui ke alu ‘ia. No task is too great when we work together.



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

March 8, 2024

TO: Representative Justin H. Woodson, Chair
Representative Trish La Chica, Vice Chair
House Committee on Education

FROM: Yuuko Arikawa-Cross, Director
Executive Office on Early Learning

SUBJECT: Measure: S.B. No. 2475 S.D. 2 – RELATING TO EDUCATION

EXECUTIVE OFFICE ON EARLY LEARNING'S POSITION: Support

Protecting children against harm is paramount for the Executive Office on Early Learning (EOEL) and we support S.B. No. 2475 S.D. 2 and defer to the Department of Education (HIDOE) on the provisions of the bill related to implementation.

EOEL is committed to providing high-quality early learning programs and services to all keiki across the State. Fundamental components of a high-quality program include safe and nurturing environments and trusting and caring adults. This bill would streamline information about individuals who have perpetuated harm against children, making that information more accessible across schools and potentially departments.

Mahalo for the opportunity to testify in support of this measure.

SB-2475-SD-2

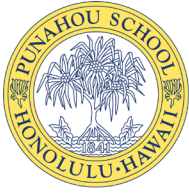
Submitted on: 3/10/2024 3:42:41 PM

Testimony for EDN on 3/12/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Leona Blankley	Individual	Support	Written Testimony Only

Comments:

Please support SB2475 to protect our children in schools.



PUNAHOU SCHOOL

1601 Punahou Street, Honolulu, HI 96822-3336
Tel: 808.944.5700 mlatham@punahou.edu

Michael E. Latham, Ph.D.
President

To: The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

From: Michael E. Latham
Governance Committee Chair, Hawaii Association of Independent Schools
President, Punahou School

Re: **SB 2475 SD2 – Relating to Education
In Strong Support**

Date: Tuesday, March 12, 2024
2:30 PM, Conference Room 309

Aloha Chair Woodson, Vice Chair La Chica, and Members of the Committee:

As a Board member and Chair of the Governance Committee of the Hawaii Association of Independent Schools, and as the President of Punahou School, I write in strong support of SB 2475 SD2. When parents enroll their sons and daughters at our state's public, charter, and independent schools, they are entrusting us with the safety of their children, and we must do all we can to earn that trust. This legislation will directly promote that vital work by creating a Harm to Students Registry empowering school officials to take affirmative steps to prevent perpetrators of sexual misconduct from moving from one school to another with impunity.

At the present, schools often dismiss employees for engaging in misconduct, but bad actors frequently are hired by other institutions where they may continue to prey on vulnerable students. To avoid defamation claims, schools may decline to share information with each other. In other instances, legal settlements may preclude the kind of warnings necessary to keep students safe. The Harm to Students Registry created by this bill will require schools to report the names of perpetrators to a central registry, provide schools with indemnification as they act in good faith, and require school hiring officers to consult the registry and decline to hire individuals named in it. It also ensures appropriate due process by requiring that schools conduct an investigation and creates a meaningful appeals process as well.

I firmly believe that a balanced, careful approach of this kind will help to protect our students. Perpetrators of misconduct are frequently serial actors, and this bill, like laws currently in effect in other states, will prevent them from further damaging young lives. I strongly encourage you to support this bill.

Thank you for the opportunity to testify in support of this measure.