

JOSH GREEN, M.D.
GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

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

Date: 03/20/2025

Time: 02:00 PM

Location: 309 VIA VIDEOCONFERENCE

Committee: House Education

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Resolution Title: HCR 0109 SUPPORTING FREE AND RESPONSIBLE SCHOLASTIC JOURNALISM AND ACTIVELY SUPPORTING AND HONORING THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION IN STUDENT PUBLICATIONS.

Department's Position:

The Hawai'i State Department of Education (Department) respectfully offers comments on HCR 109, which requests both the House of Representatives and the Senate to support free and scholastic journalism and actively support and honor the First Amendment in student publications. HCR 109 also requests the Department to: inform administrators that parent consent is not a legal requirement for publishing student names and photos in school-sponsored media; revise the current Student Publication/Audio/Video Release Form; and update the Department's website to align with the revised release form.

The Department concurs that student-authored articles published in school-sponsored media are not considered education records which require Family Educational Rights and Privacy Act consent prior to publication. The Department is in the process of clarifying this information with school administrators and plans to further review and discuss the forms mentioned in the resolution.

The Department is committed to honoring the First Amendment of the United States Constitution while also protecting individual rights to privacy.

Thank you for the opportunity to testify on HCR 109.



March 20, 2025

Rep. Justin H. Woodson
House Committee on Education
State Capitol
Honolulu, HI 96813

Re: HR 105 and HCR 109

Chairman Woodson and Committee Members:

These measures affirm the Legislature's support for free and responsible scholastic journalism and Freedom of the Press in the First Amendment of the Constitution.

The resolutions intend to remind administrators that parental consent is not a legal requirement for publishing students' names and photos in school-sponsored student media

This is critical to protecting the rights of student journalists and preventing prior restraints on the media as prohibited by the First Amendment.

Revision of the current student Publication/Audio/Video Release Form is important to assuring that these rights of student journalists will be protected.

We hope you will pass these measures without amendment.

Thank you,

Stirling Morita
President
Hawaii Professional Chapter
Society of Professional Journalists



TESTIMONY IN SUPPORT OF HAWAII HOUSE CONCURRENT RESOLUTION 109; HR105
3/20/25

Thank you for considering HCR 109/HR105. The Student Press Law Center stands in strong support of this resolution. We would be happy to answer any questions or concerns the committee may have regarding this resolution or other student press freedom matters.

The Student Press Law Center (SPLC) is an independent, non-partisan organization that promotes, supports and defends the press freedom and First Amendment rights of student journalists and their advisers. Our free legal hotline provides services to students and teachers across the country. As such, we were involved in the passage of Hawaii's Student Journalism Protection Act, which protects the rights of student journalists at public schools.

We applaud Hawaii for being the 16th state to enshrine protections for student journalists into state law ("the statute"). Since its passage in 2022, SPLC has worked alongside Hawaii's student media advisers to ensure that the statute is implemented across the state through advocating for the required school board policy and providing training for school administrators. These efforts have led to the successful passage of an updated school board policy, but also highlighted some policies or procedures formerly unknown to us. When we were informed of the Student Publication/Audio/Video Release Form ("the form"), and the belief that it is required for the purposes of school-sponsored media, we had immediate concerns.

Given the distance the new statute creates between student journalist and school district, the former policy requiring the form has no place in the new scheme as contemplated by the legislature. This is because the statute provides that student journalists are "responsible for determining the news, opinion, feature, and advertising content of school-sponsored media", and any interference with that process is now contrary to state law, unless the student publication engages in a list of proscribed speech, also enumerated in the statute. At this point, requiring the students to furnish the form and indulge in its requirements assumes that the students are employees of the school district, encumbered by privacy laws like the Family Education Rights and Privacy Act (FERPA), even though only employees or agents of the district are so encumbered. Student journalists, engaging in their free speech rights mandated by the statute, are able to obtain lawful consent from interviewed or photographed subjects as governed by the strictures of their craft, including and especially journalism ethics. Fellow students are no exception: parental consent is not required when a minor independently consents to the depiction by a student journalist.



For these reasons, the form is obsolete when it comes to the work of student journalists in the school district. In order to alleviate confusion in the wake of the new statute, HCR 109/HR105 is essential to communicate to all student media in the state that the form is only needed for communications and releases that originate from the district itself.

Thank you for your support of HCR 109, and for your ongoing trust and respect for Hawaii's student journalists.

SUBMITTED BY: Jonathan Gaston-Falk, staff attorney
jfalk@splc.org



To: House Committees on Education and Higher Education
Hearing: 2:00PM, Thursday, March 20, 2025
Conference Room 309

TESTIMONY IN SUPPORT OF HCR109 / HR105 Supporting Free and Responsible Scholastic Journalism and Actively Supporting and Honoring the First Amendment of the United States Constitution in Student Publications

Aloha Chairs Woodson and Garrett, Vice Chairs La Chica and Amato, and Members of the Committees:

Media Council Hawai'i is a non-partisan established in 1970 and is organization of individuals from the community and media which seeks to improve public access to information; strengthen public support for First Amendment rights and freedoms; and broaden public understanding of the role of the media.

Media Council Hawai'i supports HR105 and HCR109, which reaffirm the Legislature's support for free and responsible scholastic journalism and the principles of Freedom of the Press enshrined in the First Amendment of the Constitution.

The intent of the resolutions to remind administrators that parent consent if not a legal requirement for publishing student names and photos in school-sponsored student media is critical to protecting the rights of student journalists and preventing prior restraints on the media prohibited by the First Amendment. Revision of the current student Publication/Audio/Video Release Form is critical to assuring that the rights of student journalism will be protected.

We urge the committee to approve the resolutions without unwarranted changes or amendments.

Gerald Kato
Media Council Hawaii
kato_gerald@yahoo.com

HCR-109

Submitted on: 3/18/2025 2:40:22 PM

Testimony for EDN on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Kimberlee Baxter | Individual | Support | Written Testimony Only |

Comments:

I have been a journalist since 2002, and I have been a communications and journalism professor on O'ahu since 2009. I currently oversee the student newspapers at Chaminade University and Kapi'olani Community College.

The proposal to force student journalists to have written permission from parents to approve the interview/quote and/or photographs of students is absolutely absurd. There is no FERPA violation for a student to be quoted and/or photographed for the media. Also, this is unconstitutionally singling out student journalists and infringing on their First Amendment rights while allowing non-student journalists to freely interview and/or photograph students.

For example, high school sports is wildly popular in the State of Hawai'i, and many high school athletes are photographed and interviewed for publication in print (i.e. The Honolulu Star-Advertiser), online (ScoringLive) or on air (Hawai'i News Now). Heck, entire games are shown featuring entire rosters of players who've never signed a consent form. So why would the McKinley Pinion be required to obtain permission to quote a student who just appeared on TV to the entire state?

The First Amendment shall not infringe on the freedom of the press, and student media is a credible and important part of the press that should be encouraged, not stifled. The State of Hawai'i needs good journalism to hold its government and people accountable and to deliver vital information that is in the public's best interest. That all starts with young students developing a love for journalism. You cannot do that by violating their First Amendment rights at a young age.

Protect student journalists' abilities to be student journalists. Protect students' First Amendment rights.

HCR-109

Submitted on: 3/19/2025 1:10:32 PM

Testimony for EDN on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Dominic Niyo | Individual | Support | Written Testimony Only |

Comments:

Testimony in Support of HCR109

Dear Chairperson and Committee Members,

I am Dominic Niyo, a student journalist and editor for The Pinion, McKinley High School’s student-led newspaper. I am writing to express my strong support for House Concurrent Resolution 109 (HCR109), which advocates for free and responsible scholastic journalism and upholds the First Amendment rights in student publications.

As a student journalist, the ability to report facts accurately and without undue censorship is fundamental to our educational experience and personal development. HCR109 reinforces the principles established by the Hawaii Student Journalism Protection Act, signed into law in 2022, which grants student journalists the freedom to exercise speech and press rights in school-sponsored media. This resolution not only acknowledges our rights but also encourages a culture of ethical journalism within educational institutions. By supporting HCR109, the legislature affirms its commitment to fostering an environment where student journalists can responsibly inform and engage our communities.

Moreover, HCR109 provides essential protections for student journalists and their advisers against retaliation for exercising these rights responsibly. This assurance empowers us to tackle pertinent issues, hold authorities accountable, and contribute meaningfully to public discourse. Upholding the principles of HCR109 ensures that we, as emerging journalists, can perform our roles both legally and ethically, preparing us for future endeavors in the field of journalism and beyond.

Thank you for considering my testimony. I respectfully urge the committee to pass HCR109 to support the growth of free and responsible scholastic journalism in Hawaii.

Sincerely,

Dominic Niyo

Editor, The Pinion

McKinley High School

HCR-109

Submitted on: 3/19/2025 1:14:26 PM

Testimony for EDN on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Michael Olderr | Individual | Support | Written Testimony Only |

Comments:

I support this resolution!

Testimony of Sean Taketa McLaughlin
Hawaii' House Committee on Education
Thursday March 20, 2025 at 2:00 pm, Conference Room 309



TESTIMONY IN SUPPORT OF HCR109 / HR105 Supporting Free and Responsible Scholastic Journalism and Actively Supporting and Honoring the First Amendment of the United States Constitution in Student Publications

Aloha Chairs Woodson and Garrett, Vice Chairs La Chica and Amato, and Members of the Committee:

Thanks for your thoughtful consideration and support of this measure to rebuild a future for ethical journalism. Mahalo to the authors, cosponsors and you for taking concrete action.

As a longtime member of the Media Council Hawaii (MCH), I fully support MCH testimony drafted by Gerald Kato on this measure. You might remember the award winning student journalism project that we did with the Honolulu City Council -"Open City TV."

And I want to add my view as a former faculty member at UH Manoa and Leeward Community College, a consultant director/editor for DOE and and longtime advocate for the integrity of our information ecosystem - your clear educational message in adopting this measure, without unnecessary amendments, is greatly appreciated.

The next generation of student journalists are key to our hopes for a healthy information ecosystem and the integrity of our democracy.

Thanks for your thoughtful consideration of this testimony and please feel free to contact me if you would like more information or perspective on this issue.

Sean Taketa McLaughlin
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