



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

House Committee on Lower and Higher Education

Tuesday, January 29, 2019
2:00 p.m.
Hawaii State Capitol, Room 309

House Bill 411, Relating to the Board of Education

Dear Chair Woodson, Vice Chair Perruso, and Members of the Committee:

The Board of Education ("Board") supports the intent of HB 411 but has comments. HB 411 would require the Board to hold no less than six community meetings each year, with at least one in each county, and allow public testimony on items not on a public meeting agenda.

One of the Board's strategic priorities for the 2018-2019 school year relates to communication and engagement. The Board supports measures that 1) support informed decision-making and priority setting through thoughtful and intentional engagement with stakeholders, and 2) improve transparency and access to information to encourage an informed and engaged community of citizens.

The Board believes community meetings improve the public's access to the Board and provide the Board with more information from the community to help in its decision-making and priority setting. This belief is reflected in its bylaws,¹ which already require it to hold no less than six community meetings annually, including at least one in each county, which is what this measure seeks to legislate.

As to the open forum at the end of Board meetings, whether this would result in "thoughtful and intentional engagement with stakeholders," per the Board's strategic priorities, is unclear. Sunshine Law would prevent Board members from discussing any concerns or issues members of the public bring up during the open forum until such concerns or issues appear on a properly noticed Board agenda. Open forums alone do not appear to significantly increase access to or engagement with the Board because members of the public would only be allowed to provide their concerns or comments to the Board; the Board would not be able to engage or respond to testifiers. Currently, members of the public are invited to provide any comments or concerns in writing at any time. This allows for direct communication with Board Members, which would essentially have the same effect as delivering those same concerns or comments in person at

¹ Available at: [http://boe.hawaii.gov/Documents/BOE%20Bylaws%20\(07-18-2017\).pdf](http://boe.hawaii.gov/Documents/BOE%20Bylaws%20(07-18-2017).pdf)

an open forum, but without requiring members of the public to attend a public meeting or track the Board's meeting notices. Lastly, the Committee should note that the Board, in practice, already allows testimony at its meetings from the members of the public on topics that are not on the meeting agenda. Members of the public are not prevented from testifying on matters not on the meeting agenda and, in compliance with Sunshine Law, the Board only accepts such testimony and does not discuss it.

Thank you for this opportunity to testify on behalf of the Board.

Very truly yours,

Catherine Payne
Chairperson, Board of Education
Chairperson, 2019 Legislative Ad Hoc Committee

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Lower & Higher Education

From: Cheryl Kakazu Park, Director

Date: January 29, 2019, 2:00 p.m.
State Capitol, Conference Room309

Re: Testimony on H.B. No. 411
Relating to the Board of Education

Thank you for the opportunity to submit testimony on this bill, which would require the Board of Education to hold no less than six community meetings each year. The Office of Information Practices (OIP) takes no position on this bill, but has concerns about a confusing exemption from portions of the Sunshine Law, part I of chapter 92, and an alternative form of notice that appears to be based on outdated Sunshine Law notice requirements.

On page 1 lines 14-15, this bill would apparently exempt community meetings held by the Board of Education from sections 92-2.5, -7, and -9, Hawaii Revised Statutes (HRS), the Sunshine Law provisions allowing “permitted interactions” for board members to discuss board business outside a meeting in limited circumstances, requiring public notice of every meeting, and requiring a board to keep minutes. (The bill also would exempt community meetings from section 92-41, HRS, a provision outside the Sunshine Law requiring a government agency to give notice of a public hearing on a proposed action in every affected county. As this provision is outside OIP’s jurisdiction, OIP takes no position on the proposed exemption from it.)

The exemption from section 92-2.5, HRS, which allows permitted interactions between board members, is confusing because that provision only applies at times when the relevant board is **not** in a meeting, so it is not clear what the effect would be of saying that a board's members cannot use a permitted interaction to speak to one another about board business outside a meeting while in a meeting. On its face, the exemption seems meaningless. It could perhaps be interpreted as meaning that members cannot use a permitted interaction to speak to one another outside a meeting during the time shortly before or after a community meeting, but in that case it would be better to have the bill clearly state the period during which the members are not allowed to use permitted interactions to speak to one another about board business outside a meeting rather than leave it to interpretation. **Alternatively, if it is not this Committee's intent to prevent board members from discussing board business outside a meeting in a manner otherwise permitted under section 92-2.5, HRS, OIP recommends that this Committee delete the exemption from section 92-2.5.**

The exemptions from the requirement to give public notice of the community meeting (section 92-7, HRS) and to keep minutes of the meeting (section 92-9) are more straightforward to interpret. **However, the alternative form of public notice set out from page one, line 15 through page 2, line 4 appears to be based on the Sunshine Law's notice requirements as they existed prior to July 1, 2018. The alternative notice also leaves out any requirement to notify persons on the board's regular mailing or email lists to receive notices of meetings, so those members of the community who rely on that to be notified of meetings will not know about a community meeting.** It is not clear what the purpose is of creating an alternative notice requirement for these community meetings, and OIP would question the value of

replacing the usual method of providing public notice of a meeting with a slightly different method for community meetings. It is also unclear how anyone not present at a community meeting will be able to find out what was discussed there when **there is no requirement to take minutes or otherwise record it.**

If the intent of this Committee is to allow the board members to address anything raised by the members of the public at a community meeting regardless of whether it was on an agenda, and to allow board members and others not present to learn what the public had to say while still accommodating what may be a more free-wheeling style of discussion, a more effective approach would be to exempt the community meetings only from the requirement to include an **agenda** in the public notice, not from the entire notice requirement, and to require **videotaping** the meeting if it is exempted from the minutes requirement. The following language would accomplish this:

“The community meetings shall be exempt from the requirement to include an agenda when providing notice under section 92-7, and shall be exempt from section 92-9, provided that the board shall videotape the community meeting and shall make the videotape available at the next regular meeting.”

Thank you for the opportunity to testify.



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COMMITTEE ON LOWER & HIGHER EDUCATION

Tuesday, January, 29, 2019, 2:00 pm, Conference Room 309
HB 411, RELATING TO THE BOARD OF EDUCATION

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Woodson, Vice-Chair Hashem, Vice-Chair Perruso and Committee Members:

The League of Women Voters of Hawaii strongly supports HB 411 that would require the Board of Education to hold no less than six community meetings each year, provided that at least one meeting shall be held in each county; and, to have a process whereby the public may testify on items not on a public meeting agenda if certain requirements are met.

The League supports the public's rights and interest concerning the administration, policy setting and budget making for our statewide school system; this is important whether we have an elected or appointed Board of Education. We believe the proposed measure is consistent with Chapter 92 Section 302A-124 HRS and the Board's By-Laws.

We support the board holding no less than six community meetings annually, to discuss and receive input from the community on public education and public library issues; provided that the board shall hold at least one community meeting in each county.

Now, the public is permitted to testify at Full Board of Education meetings, but only for items that already appear on the agenda, which has been set by the Board in advance of the meeting. We request this bill be amended, as necessary, so it is clear that every meeting of the full Board would have an agenda item titled "Open Forum" or "Community Items," so that the Board routinely solicits public proposals for future agenda items. This would permit greater transparency because minutes of the Board meeting would include the proposed agenda items that had been suggested.

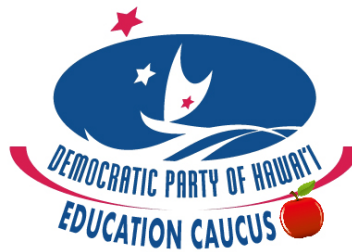


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At a subsequent Board meeting the full Board could then act on any open “Community Items.” Making decisions on suggested items at the subsequent meeting would guarantee that the suggested items appeared on the public agenda for this meeting, when the Board could make decisions on suggested items. While this would not guarantee inclusion on the agenda of the items proposed by the public under the 'Open Forum' or 'Community Items' area, it would create a venue for the public to present suggestions of items for discussion.

We support the Board’s current instructions for submitting written testimony and testifying in person at Board meetings and do not believe the proposed change would interfere with the general business of the Board.

We urge you to pass this bill. Thank you for the opportunity to submit testimony.



HOUSE BILL 411, RELATING TO THE BOARD OF EDUCATION

JANUARY 29, 2019 · HOUSE EDUCATION
COMMITTEE · CHAIR REP. JUSTIN WOODSON

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports HB 411, relating to the Board of Education, which requires the BOE to hold no less than six community meetings each year, provided that at least one meeting shall be held in each county, and compels the BOE to allow public testimony on items not on a public meeting agenda.

Education is everyone's issue. Providing a quality education to all of Hawai'i's keiki involves collaboration among multiple stakeholders, including teachers, administrators, parents, and community members. Too often, though, stakeholder concerns are silenced by the BOE, which typically holds meetings during the daytime in downtown Honolulu and only discusses matters prioritized by the Department of Education, in consultation with board members.

Offering open forums at BOE meetings would empower stakeholders beyond the DOE's administrative offices. Parents could discuss the value of new anti-bullying strategies. Teachers could detail problems with departmental testing protocols. Service providers could identify patterns of risk being seen in youth behaviors. Board members could, in turn, respond to concerns that would otherwise go unheard, fostering transparency, interagency partnerships, and community engagement to craft policies that enhance the learning experience at every level.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
John Bickel, President	Melodie Aduja	Ken Farm	Stephen O'Harrow	P.O. Box 23404
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Dylan Armstrong, Secretary	Gloria Borland	Jenny Nomura		

Jan 26, 2018

TO: Honorable Chair Woodson & LHE Committee Members

RE: HB 411 Relating to the Board of Education

Support for hearing on Jan. 29

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 411 as it would require the Board of Education to hold no less than six community meetings each year; provided that at least one meeting shall be held in each county. It also requires the Board of Education to allow public testimony on items not on a public meeting agenda if certain requirements are met. Since the transition from an elected Board of Education to an appointed one we have seen an erosion in the ease of opportunity for the public to bring concerns to the Board. This would help.

Thank you for your favorable consideration.

Sincerely,

John Bickel President



HB-411

Submitted on: 1/28/2019 5:07:59 AM

Testimony for LHE on 1/29/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Debbie Anderson	member of the DPH Education Caucus	Support	No

Comments:

OUR CENTRALIZED BOARD OF EDUCATION (BOE) can become Oahu-centric, with access easier for citizens within its population center.

Ensuring that at least once a year the Board of Education holds meetings in each county gives greater opportunity for county voices to be heard. Public education in a democracy should be for the people, by the people, and of the people.

Beyond a specific agenda set in advance, allowing regulated public testimony provides a means for the communities represented in each county to have their concerns and voices heard by the board of education.



O`ahu County Committee on Legislative Priorities (OCCLP)

January 28, 2019

TO: Honorable Chair Woodson & LHE Committee Members

RE: HB 411 Relating to the Board of Education

Support for hearing on Jan. 29

Aloha mai kakou:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 411 relating to the Board of Education.**

OCCLP supports HB 411 as it would require the Board of Education to hold no less than six community meetings each year; provided that at least one meeting shall be held in each county. It also requires the Board of Education to allow public testimony on items not on a public meeting agenda if certain requirements are met. Since the transition from an elected Board of Education to an appointed one OCCLP has seen an erosion in the ease of opportunity for the public to bring concerns to the Board. HB 411 would be helpful in this regard.

Mahalo nui loa

Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i

Ph. (808) 258-8889

Email: legislativepriorities@gmail.com

HB-411

Submitted on: 1/27/2019 7:02:08 PM

Testimony for LHE on 1/29/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Comments	No

Comments:

I believe that the BOE needs to be more accountable to the community. As they are appointed by the Governor and no longer elected, it seems that they do not always act in the interest of the community. The DOE system is large. The path to getting information to the BOE is often not the most direct and accurate for those who are trying to work within the system for students.

LATE

HB-411

Submitted on: 1/28/2019 9:14:27 PM

Testimony for LHE on 1/29/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Support	No

Comments: