



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

Date: 02/24/2020

Time: 12:00 PM

Location: 016

Committee: Senate Judiciary

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 2486, SD1 RELATING TO EDUCATION DATA.

Purpose of Bill: Requires the Department of Education to establish a standardized data collection process; collect and analyze data relating to, among other things, student discipline, seclusion, and restraint, school climate, and student achievement; and annually report certain information to the Board of Education, Legislature, and the public. (SD1)

Department's Position:

The Department of Education (Department) supports SB 2486, SD 1 and respectfully provides comments. Systematic data collection improves our identification of best practices and data integrity. Further, expanding data collection will strengthen and inform decision-making by our schools, complex areas, and state offices. Should the U.S. Department of Education decide to eliminate or reduce the reporting of civil rights data, the Department has committed to continue its civil rights collection for state accountability.

The Department collects and reports accountability data for StriveHI, the Every Student Succeeds Act (ESSA), EdFacts, the Civil Rights Data Collection (CRDC), the Consolidated State Performance Report (CSPR) and the State Systemic Improvement Plan (SSIP). As new reporting requirements develop, enhancements to source systems of data may be required to accommodate new data collection.

The Department recommends that data shall be reported as required by this section in alignment with the Department's business rules for federal data reporting, provided that the personally identifiable information of each student shall be kept private. While a minimum of ten students is currently reported for federal reports, changes in federal reporting requirements, as well as student privacy requirements, may require the Department to revise its business rules

(including the minimum number of students for reporting purposes). Therefore, upon further discussion, the Department may determine the appropriate N-size based on the purpose of the presentation and report, not setting a specific number of students as a threshold for data reporting.

To leverage data assets and increase the value of longitudinal student data for decision-making, the Department is expanding the current longitudinal data repository system called the Longitudinal Education Information (LEI) System. This system also consolidates multiple data reporting systems into a single data repository that supports the Department's information requirements for continuous improvement, accountability, compliance, and strategic and public/policy reporting. The Data Governance and Analysis Branch of the Department, which facilitates the work of the LEI system, is integral to the Department's data accountability, integrity, and reporting.

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.



Hawai'i

Committee: Committee on Judiciary
Hearing Date/Time: Monday, February 24, 2020/12:00pm
Place: Conference Room 016
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 2486 SD1, Relating to Education Data.

Dear Chair Rhoads, Vice Chair Keohokalole, and members of the Committee on Judiciary:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in support of S.B. 2486 SD1, which would reform Hawaii's laws on education data collection practices and make data more accessible to families, community members, and advocates.

Hawaii's current data collection policy is to have no policy at all, and provides no way to check if the data is accurate. This bill requires the Hawai'i State Department of Education ("DOE") to create mandatory policies for data collection and implement an audit process for determining if the data collected and submitted is accurate.

The federal Department of Education ("ED") requires all districts to submit biennially a set of data indicators called the Civil Rights Data Collection ("CRDC"). The last published collection was the 2015-16 school year. The DOE sends a guidance memo out each time the CRDC needs submission, but does not have official policies or requirements for how individual schools and complex areas must submit and verify this data. Individual principals send in their data, and it is up to those principals and complex area superintendents to verify this data. The central office at the DOE does not verify the accuracy of this data or enforce data collection best practices.

The Hawai'i Department of Education submitted inaccurate data and misrepresented data to the Federal Department of Education. There are two widespread examples of how this data has been inaccurate in the past, to the detriment of the children the DOE serves:

1. The DOE had to resubmit their 2015-16 CRDC data to the federal government in August 2019¹ after the ACLU of Hawai'i alerted them in June 2019² of drastic disparities in the

¹ Suevon Lee, "Hawaii DOE Releases Revised Data on Student Suspensions," *Civil Beat* <https://www.civilbeat.org/2019/08/hawaii-doe-releases-revised-data-on-student-suspensions/> (August 15, 2019).

² Suevon Lee, "ACLU Says Hawaii Schools Are Suspending Too Many Students," *Civil Beat* <https://www.civilbeat.org/2019/06/aclu-says-hawaii-schools-are-suspending-too-many-students/> (June 14, 2019).

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number and length of suspensions, particularly for Native Hawaiian and Pacific Islander students and students with disabilities. The DOE hired an outside consultant to recalculate their school discipline indicators.

For instance, the DOE said it double-counted suspension term lengths. As another example, the DOE reported zero school psychologists employed in 2015-16. Because school psychologists are employed at the complex level, only reporting school-level data meant that none were counted in that year's CRDC data. This results in advocates being unable to determine if the level of staffing is sufficient to meet students' needs.

2. The DOE misrepresented that it had collected data on instances of restraint³ and seclusion, per state and federal law requirements, when it had not.⁴ It reported zero uses of restraint in the 2015-16 CRDC. Per a public records request the ACLU of Hawai'i submitted in January 2019, the DOE reported at least 67 cases in 2017-18. The DOE admitted in July 2019 that by reporting "zero" instances, it meant it **did not collect this data for the 2015-16 year at all**, rather than having zero instances of restraint. This particularly affects children with disabilities; We owe it to our most vulnerable students to identify this data, and protect them.

The Federal Department of Education is rolling back data reporting requirements in the Civil Rights Data Collection. This bill retains those protections. Under this presidential administration, the federal government has consistently walked back or removed civil rights protections relating to transgender students; discrimination affecting an entire protected class within schools or school systems, including race, gender, national origin, and English Language learner and disability status; and now, in the types of data indicators school systems must collect. ED is proposing to modify future CRDC requirements. If the DOE does not collect data on student discipline, school climate, and student achievement, the state is not able to determine if there are deficiencies (or even success stories) and is not adequately serving its students.

The Department of Education does not adequately analyze its data for instances of disparity; this bill requires data analysis to identify disparities. Simply collecting data is step one. Step two is to analyze the data collected for disparities. "Do we suspend more Native Hawaiian youth than

³ U.S. Department of Education, "*Restraint and Seclusion: Resource Document*," p. 2 <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (May 2012). Restraint means physically, mechanically, or chemically (via drug) to control movement or behavior; children have been injured and even died while in school due to these methods.³ The use of restraint presents high risks to the student's safety, and ED has found no evidence that using such methods decreases the behaviors that precipitated the need for restraints.

⁴ Suevon Lee, "Hawaii Provided 'Inaccurate' Data On Student Restraint And Seclusion," *Civil Beat* <https://www.civilbeat.org/2019/07/hawaii-provided-inaccurate-data-on-student-restraint-and-seclusion/> (July 8, 2019).

Japanese youth? At which schools?" These types of questions could not be answered under current data practices. The ACLU of Hawai'i has submitted numerous public records requests related to school discipline disparities, but these requests have been returned unfulfilled because the DOE does not maintain these types of records. However, this is basic information that all interested parents, community members, advocates, and students should have access to; requiring this analysis and that the DOE take steps to address any disparities found, means that students will be identified and served.

The Department of Education does not adequately publish or make available data to families and advocates. The types of data collection and analysis required in this bill have been implemented in part or whole in over 30 states. This legislation is necessary to identify instances of disparity between our most vulnerable populations of students, and ensure that the disparities are rectified. The bill requires the DOE to make the data publicly available, in a format easy to understand. If we are truly dedicated to raising academic achievement, knowing how we decide to sanction students is imperative.

For the above reasons, we urge the Committee to support this measure. Thank you for the opportunity to testify.

Sincerely,

Rae Shih
Legal Fellow
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

SB-2486-SD-1

Submitted on: 2/21/2020 4:00:24 PM

Testimony for JDC on 2/24/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Testifying for aauw of hawaii	Support	No

Comments:

SB-2486-SD-1

Submitted on: 2/21/2020 3:43:23 PM

Testimony for JDC on 2/24/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Testifying for Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

SB-2486-SD-1

Submitted on: 2/21/2020 4:12:40 PM

Testimony for JDC on 2/24/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Testifying for Hawaii Women's Coalition	Support	No

Comments:



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senator Rhoads, Chair
Senator Keohokalole Chair
Senate Committee on Judiciary

LATE

Re: SB 2486- Relating to education data
Hawai'i State Capitol, Room 016
12:00PM , 2/24/2020

Chair Rhoads, Vice Chair Keohokalole, and committee members,

On behalf of Hawaii Children's Action Network Speaks!, we are writing to support in STRONG support SB 2486 SD1-relating to education data.

Having accurate data on school climate, student achievement, suspensions, and school-related arrests will provide important information on how our school system is functioning and opportunities for reflection and improvement.

Additionally, data collection, analysis, and reporting required by this bill is intended, in part, to preserve protections that may soon be lost if the United States Department of Education acts on its proposal, published on September 19, 2019, in the Federal Register, to cease collecting certain types of data from public schools for the Department's mandatory civil rights data collection.

For these reasons, HCAN Speaks! respectfully requests the Committee to support this measure.

Thank you,

Kathleen Algire
Director, Public Policy and Research