

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:
H.B. NO. 1775, RELATING TO CIVIL RIGHTS.

BEFORE THE:
HOUSE COMMITTEE ON EDUCATION

DATE: Tuesday, February 1, 2022 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Via Videoconference , Room 309

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Lori N. Tanigawa, Deputy Attorney General

Chair Woodson and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill (1) defines the scope and application of chapter 368D, Hawaii Revised Statutes, and sets forth requirements with which covered entities must comply; and (2) requires annual reporting to the Legislature on the number and types of Title IX cases received by the Department of Education, Public Charter Schools, and the University of Hawai'i, and other relevant information.

Section 6 of article X of the Hawai'i State Constitution gives the Board of Regents of the University of Hawai'i "exclusive jurisdiction over the internal structure, management, and operation of the university." Section 6 further provides: "[t]his section shall not limit the power of the legislature to enact laws of statewide concern. The legislature shall have the exclusive jurisdiction to identify laws of statewide concern." If the Committee decides to pass this bill, we recommend an amendment that adds a statement identifying this bill as a law of statewide concern.

Thank you for the opportunity to provide these comments.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Education
February 1, 2022 at 2:00 p.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 1775 – RELATING TO CIVIL RIGHTS

Chair Woodson, Vice Chair Kapela, and members of the committee:

Thank you for the opportunity to present testimony on HB 1775 – Relating to Civil Rights. The University of Hawai'i ("University") supports the intent of this bill and provides the following comments.

HB 1775 specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; requires covered entities to adopt written policies and undertake other specified enforcement actions no later than January 1, 2023; and requires annual reports to the Legislature.

The University appreciates its long-standing, collaborative relationship with the Women's Legislative Caucus to uphold the spirit and intent of Title IX and to create an educational environment that enhances safety and advances gender equity. The University also shares the Legislature's desire to implement policies and procedures that prevent and address sex discrimination and gender-based violence. To that end, the collegial partnership with the Caucus has positively impacted the University's policy development and programmatic efforts over the years.

As Title IX celebrates its 50th year of existence in June 2022, the framework and scope of the landmark federal legislation continues to evolve and expand. We have learned that educational institutions must be nimble yet robust in their own organizational infrastructure and programmatic goals in addressing sex discrimination and sexual misconduct. The swiftly-changing landscape necessitates vigilant attention to these critical issues as they impact policy, procedures and programmatic initiatives. Accordingly, the University appreciates the bill's intent to avoid a conflict of laws by providing that, "If any conflict arises between applicable mandatory federal requirements under Title IX (20 U.S.C. 1681 et seq.) and any state law requirements, the federal requirements shall prevail."

Given the potential for the landscape to change over time in this area, however, we believe a better long-term strategy is for educational institutions to be given the flexibility to continuously update their policies and procedures, while remaining compliant with applicable laws and regulations, through engagement with stakeholders and community members. To this end, the University believes legislation should focus on recognizing the

objectives of written policies adopted by institutions in this area, while permitting them to develop the specific details of policies and procedures as part of their internal governance structure. This will allow the University to further refine its policies and procedures over time, to align with the best practices of today and tomorrow.

While the University shares the Legislature's desire to have public data available related to the University's Title IX efforts, it respectfully suggests its current work to present robust and transparent data is accomplished through the University's Annual Report on Campus Safety and Accountability submitted to the Legislature in accordance with HRS section 304A-120. This report incorporates the results of the University's Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence, which measures students' attitudes, behaviors and standards in the context of preventing and addressing sexual harassment and gender-based violence. This comprehensive survey is conducted biennially systemwide and administered through a third-party vendor in accordance with best practices. More specifically, the University survey gathered information from students about:

- The overall campus environment related to sexual harassment and gender-based violence.
- How well the University responds to and addresses their concerns.
- Awareness of resource and reporting options for those experiencing sexual violence, sexual harassment, stalking, and interpersonal violence (domestic and dating violence).
- Prevalence (e.g., how widespread) and incidence (e.g., how often) of sexual violence, sexual harassment, stalking, and interpersonal violence on campus.

The results of the recurring survey which are regularly reported to the Legislature and the general public provide transparency as to the prevalence and perception of sexual harassment and gender-based violence and continue to inform the University's action plans. Instead of additional reporting requirements, the University's resources may be better served by continuing to work on the implementation of campus-based action plans, consistent with the Climate Survey data and towards preventing gender-based violence and sexual harassment.

Furthermore, the University has concerns that requiring additional data as described in HB 1775 may have broader privacy implications for the individuals involved in the University's internal investigatory process. This is especially true for smaller campuses, where lower numbers of cases could lead to privacy issues even in aggregate reporting.

The University looks forward to continuing our work with the Legislature and the Women's Legislative Caucus to further refine the provisions of the bill, in support of a safe and nondiscriminatory campus environment.

Thank you for the opportunity to testify on HB 1775.

DAVID Y. IGE
GOVERNOR



JOHN S.S. KIM
CHAIRPERSON

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

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB1775 Relating to Civil Rights
DATE: February 1, 2022
TIME: 2:00 P.M.
COMMITTEE: Committee on Education
ROOM: Conference Room 309 & Videoconference
FROM: Yvonne Lau, Interim Executive Director
State Public Charter School Commission

Chair Woodson, Vice Chair Kapela, and members of the Committee:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in **SUPPORT of HB 1775** which specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS. Requires covered entities to adopt written policies and undertake other specified enforcement actions no later than January 1, 2023, and requires annual reports to Legislature.

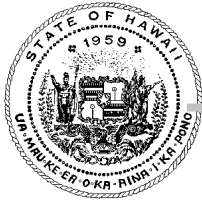
The Commission respectfully requests that the committee provide funding for a Title IX position as had been provided to the Hawaii Department of Education in past legislative sessions in order to meet the compliance, training and reporting requirements of this bill. Our public charter schools currently do not have access to the Department of Education’s Civil Rights Compliance Branch for training, compliance monitoring or investigations into such matters. Each public charter school is expected to meet these requirements individually and often rely on the advice of their Deputy Attorney Generals for assistance.

Due to the way funding is distributed between the Hawaii Department of Education and our public charter schools this requirement along with any additional mandated training or compliance monitoring is added to each public charter school’s long list of requirements but are often financially difficult to meet. The ability of the Department of Education to centralize these types of requirements cannot be found in the public charter school model. The Commission asks for consideration of these operational and capacity issues to be address for our public charter schools so that the intent of this bill can be met.

Title IX is an extremely important law that must be followed to ensure equity and access to girls and women in our public charter schools, however, the funding to ensure this has not been included for our public charter schools.

The Commission is available to work with this committee, the DOE, the Department of Budget and Finance, and public charter schools in moving this legislation forward.

Thank you for the opportunity to provide this testimony.



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

Tuesday, February 1, 2022
Via Videoconference, 2:00 p.m.
Conference Room 309

To: The Honorable Justin H. Woodson, Chair
The Honorable Jeanne Kapela, Vice Chair
Members of the House Committee on Education

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 1775

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports H.B. No. 1775, which amends H.R.S. Chapter 368D, by adding a purpose section in Chapter 368D that clarifies the scope of the state law corollary to the Federal Title IX law, and amends § 368D-1 to specify additional forms of discrimination and other prohibited conduct under Chapter 368D. The bill also adds new sections to Chapter 368D that require covered entities (entities that have an educational program or activity that receives state financial assistance, in any amount, for any purpose) to adopt written policies and undertake specified enforcement action, and for state educational programs or activities (UH, DOE, and

public charter schools) to submit annual reports to the Legislature.

Act 110, L 2018, established a state corollary to Title IX by adding a new chapter to Title 20 of the Hawai'i Revised Statutes, now HRS chapter 368D, prohibiting discrimination based on sex, including gender identity or expression, or sexual orientation in any state educational program and activity or educational program or activity that receives state financial assistance. H.B. No. 1775 provides a framework for enforcement of the state Title IX corollary.

H.B. No. 1775 provides students protection against sex discrimination, including sexual harassment and sexual assault, similar to the protections provided for employees under federal and state fair employment laws, Title VII and H.R.S. Chapter 378, Part I, respectively. In doing so, it provides needed protections for the most vulnerable to harm, for the purpose of providing a safe learning environment free of sex discrimination, that provides all with an equal opportunity to succeed without regard to sex, including gender identity or expression, or sexual orientation.

H.B. No. 1775 provides organizations and associations standing to file complaints alleging violations of Chapter 368D with covered entities. It also provides that nothing in Chapter 368D precludes a student participating in a covered educational program or activity from filing a civil action in court. The HCRC suggests that the statute should also provide for the award of attorneys fees and costs to a prevailing complainant.

On March 8, 2021, President Biden signed an Executive Order expressing a policy commitment that all students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, which encompasses sexual violence, and including discrimination on the basis of sexual orientation or gender identity, and ordering a review of all regulations, orders, guidance documents, policies, and agency actions that are inconsistent with that commitment. To that effect, the USDOE is expected to release proposed amended regulations in 2022 to reverse

Trump administration USDOE regulations that gutted such protections.

Shifting federal interpretation and enforcement of Title IX protections against sex discrimination, with about-face turns in conflicting rules, guidance, and executive actions and orders, serve to highlight the need for strong state law and the legislature's wisdom in enacting the state law corollary to Title IX. Here, as a historical theme in Hawai'i civil rights lawmaking, federal law is a "floor" beneath which state law protections against discrimination cannot drop, rather than a "ceiling" above which state law protections cannot rise. California Federal Sav. and Loan Ass'n v. Guerra, 479 US 272, 290-292 (1987).

The HCRC supports H.B. No. 1775.



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

Date: 02/01/2022
Time: 02:00 PM
Location: 309 Via Videoconference
Committee: House Education

Department: Education

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

Title of Bill: HB 1775 RELATING TO CIVIL RIGHTS.

Purpose of Bill: Specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS. Requires covered entities to adopt written policies and undertake other specified enforcement actions no later than 1/1/2023. Requires annual reports to Legislature.

Department's Position:

The Hawaii State Department of Education (Department) would like to offer comments on HB 1775, which specifies additional forms of sex discrimination and other prohibited conduct and requires the Department to adopt written policies, undertake other specified enforcement actions, and submit annual reports the Legislature.

The Department is deeply committed to effectuating Title IX of the Educational Amendments of 1972 (Title IX) and the tenets that it upholds. The Department currently has interim procedures that reflect the 2020 revisions to the federal Title IX requirements to address reports and complaints of sexual harassment. The Department recognizes that the 2020 revisions to the federal Title IX regulations have raised the criteria for what types of conduct would constitute sexual harassment under Title IX and these new criteria would be addressed per the due process steps indicated in the 2020 revisions.

To ensure that reports of sexually harassing conduct that does not fall within the federal Title IX regulations are appropriately addressed, the Department has utilized other applicable rules and policies. Specifically, Chapter 19 of Title 8 of the Hawaii Administrative Rules (Chapter 19) is used primarily for situations where both the complainant and the respondent are students; Chapter 89 of Title 8 of the Hawaii

Administrative Rules (Chapter 89) and Board of Education Policy #305-10 (BOE Policy #305-10) are utilized for situations where the complainant is a student and the respondent is an employee; and Board of Education Policy #900-1 (BOE Policy #900-1) is utilized for situations where both the complainant and the respondent are employees.

The Department understands that this bill proposes that covered entities adopt a written policy to address complaints covered under this bill, which shall include definitions, as necessary to interpret and apply the policy. The definitions proposed in this bill vary from the definitions included in Chapter 19 and Chapter 89 and, therefore, interim procedures would need to be drafted and created while Chapter 19 and Chapter 89 are revised to reflect the proposed definitions.

The Department supports the intent of reporting requirements covered under the proposed bill to the Legislature. However, it currently handles data relating to an employee complainant and a student respondent as misconduct and a disciplinary issue against the student respondent under Chapter 19. Therefore, such incidents are currently inputted for the student respondent only. The proposed data requirement would necessitate changes to be made in the Chapter 19 forms and the Department's Student Information System.

The Department appreciates the Legislature's efforts to ensure that all reports of sexual harassment are appropriately addressed and looks forward to working with the Legislature to achieve this goal.

Thank you for this opportunity to provide testimony.

HB-1775

Submitted on: 1/31/2022 4:59:54 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robin Wurtzel	Hawai`i Civil Rights Commission	Support	Yes

Comments:

Testimony submitted by William Hoshijo, Robin Wurtzel appearing for HCRC

HB-1775

Submitted on: 1/28/2022 5:22:52 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mike Golojuch, Sr.	Rainbow Family 808	Support	No

Comments:

We strongly support the passage of HB1775.

Mike Golojuch, Sr., Secretary/Board Member, Rainbow Family 808

HB-1775

Submitted on: 1/28/2022 5:58:19 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Golojuch Jr	Stonewall Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The Stonewall Caucus of the Democratic Party of Hawai'i (formerly the LGBT Caucus) fully supports HB 1775.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH



To: Hawaii State House Committee on Education
Hearing Date/Time: February 1, 2022 2PM
Re: Testimony in STRONG SUPPORT of HB1775

Dear Chair Woodson, Vice Chair Kapela, and the Members of Committee,

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of HB1775 which specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS, prohibited discrimination in state educational programs and activities. HB1775 would also require schools and educational programs receiving state fund to adopt written policies and undertake other specified enforcement actions; require annual reporting to the legislature on the number and types of Title IX cases and other relevant information.

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Since the passage of this landmark civil rights law, opponents have sought to weaken it. In 2017, the U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX requires schools to prevent and address sexual harassment and violence and to protect transgender students. **In 2018, Hawaii passed Act 110 which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, or gender expression, in any state educational program or activity. Hawaii was the first state to do so.** Then, in May 2020, the Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX.**

According to AAUW's research "Crossing the Line":

- o Two out of three college students and nearly half of the students in grades 7-12 experience sexual harassment
- o More than 11% of all students experience sexual assault but only 20% of female students report to the authorities.

According to the 2019 UH climate survey,

- o 12.7% of students experienced sexual harassment



- o 10.6% experienced stalking
- o 21.3% experienced dating or domestic violence
- o and 7.2% experienced non-consensual sexual contact.

These numbers unfortunately represent an increase over the responses from the 2017 UH climate survey.

According to the 2019 CDC Youth Risk Behavior Survey,

- o 13.1% of high school students were electronically bullied
- o 17% were bullied on school property
- o 10.8% experienced non-consensual sexual contact,
- o and 8.6% experienced physical dating violence.

We need Hawaii State Corollary providing Title IX enforcement for all students and protections for student survivors of harassment and violence.

The American Association of University Women (AAUW) of Hawaii is an all volunteer, statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward Oahu. UH Hilo, UH Manoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.

Please pass this important measure to ensure "no person in the state of Hawaii shall, based on sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving state financial assistance", as our late congresswoman Patsy T Mink intended. Mahalo.

Sincerely,

A handwritten signature in blue ink, appearing to be the initials "WJ" or similar, written in a cursive style.



Younghee Overly
Public Policy Chair, AAUW of Hawaii
publicpolicy-hi@aauw.net



Hawaii Women's Coalition

To: Hawaii State House Committee on Education
Hearing Date/Time: February 1, 2022 2PM
Re: Testimony in STRONG SUPPORT of HB1775

Dear Chair Woodson, Vice Chair Kapela, and the Members of Committee,

Members of Hawaii Women's Coalition thank you for this opportunity to testify in strong support of HB1775 which would specify additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; require schools to adopt written policies and undertake enforcement actions; and require schools to submit annual reports on Title IX cases.

In May 2020, the federal Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX.**

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Please pass this important measure to ensure Title IX protects all students in Hawaii from discrimination, harassment and assault based on their sex as our late congressman Patsy T Mink intended.

The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

Thank you and with Aloha,

Members of Hawaii Women's Coalition



To: Hawaii State House Committee on Education
Hearing Date/Time: February 1, 2022 2PM
Re: Testimony in STRONG SUPPORT of HB1775

Dear Chair Woodson, Vice Chair Kapela, and the Members of Committee,

Members of Hawaii State Democratic Women's Caucus thank you for this opportunity to testify in strong support of HB1775 which would specify additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; require schools to adopt written policies and undertake enforcement actions; and require schools to submit annual reports on Title IX cases.

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Since the passage of this landmark civil rights law, opponents have sought to weaken it. In 2017, the U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX requires schools to prevent and address sexual harassment and violence and to protect transgender students. In 2018, we were so proud that Hawaii passed Act 110 which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, or gender expression, in any state educational program or activity. Hawaii was the first state to do so.

Then, in May 2020, the U.S. Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii also needs to codify the enforcement of Title IX.**

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls.

Please pass this important measure to ensure Title IX protects all students in Hawaii from discrimination, harassment and assault based on their sex as our late congressman Patsy T Mink intended. Mahalo.

Sincerely,

Members of Hawaii State Democratic Women's Caucus



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

John Bickel, President
Alan Burdick, Vice President
Dave Nagajji, Treasurer
Doug Pyle, Secretary

DIRECTORS

Melodie Aduja
Keola Akana
Juliet Begley
Stephanie Fitzpatrick
Jan Lubin
John Miller
Jenny Nomura
Stephen O'Harrow

MAILING ADDRESS

P.O. Box 23404
Honolulu
Hawaii 96823

January 31, 2022

TO: Chair Woodson and Members of the Education Committee

RE: HB 1775 Relating to Civil Rights

Support for hearing on February 1

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 this bill as we support full implementation of Title IX, authored by Congresswoman Mink. It would provide a framework for the enforcement of the state law corollary to Title IX of the Education Amendments of 1972. It includes dating and domestic violence and forms of gender expression. Title IX is a landmark piece of legislation for the rights of women and girls. It needs to be enhanced not eroded.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President

Prejudice, Discrimination, and Racism

The National Association of School Psychologists (NASP) is committed to advocating for the rights of all students to be educated in safe schools and communities free from prejudice and discrimination. NASP is committed to ensuring that all children receive high-quality, equitable opportunities to learn in educational environments where their rights are protected consistent with NASP’s professional guidelines and federal legislation (e.g., Title VI of the Civil Rights Act, Americans with Disabilities Act, Individuals with Disabilities Education Act). Positive educational and social outcomes for *all* children and youth are possible only in a society—and schools within it—that guarantees equitable treatment to all people, regardless of race, class, culture, language, gender, gender identity, religion, sexual orientation, nationality, citizenship, ability, and other dimensions of difference. NASP firmly believes that all students are entitled to an education that affirms and validates the diversity of their cultural and individual differences, fosters resilience, and facilitates well-being and positive academic and mental health outcomes.

DEFINITIONS

- *Prejudice* refers to irrational or unjustifiable negative emotions or evaluations toward persons from other social groups, and it is a primary determinant of discriminatory behavior (Friske, Gilbert, & Gardner, 2010).
- *Discrimination* refers to inappropriate treatment of people because of their actual or perceived group membership and may include both overt and covert behaviors, including microaggressions, or indirect or subtle behaviors (e.g., comments) that reflect negative attitudes or beliefs about a nonmajority group.
- *Racism* refers to prejudice or discrimination against individuals or groups based on beliefs about one’s own racial superiority or the belief that race reflects inherent differences in attributes and capabilities. Racism is the basis for social stratification and differential treatment that advantage the dominant group. It can take many forms, including explicit racial prejudice and discrimination by individuals and institutions (e.g., Jim Crow laws after the Reconstruction) as well as structural or environmental racism in policies or practices that foster discrimination and mutually reinforcing social inequalities (e.g., attendance policies that favor a majority group). Racism can also take the form of unconscious beliefs, stereotypes, and attitudes toward racial groups in the form of implicit bias (e.g., assuming limited ability when students speak non-standard English; fearful responses to verbal or physical behavior of non-White students; Staats, Capatosto, Wright, & Jackson, 2016). Other forms of racism are modern symbolic racism in which individuals deny the continued existence of racial inequality while contributing to discrimination and aversive racism through in-group favoritism for the dominant racial group (Bailey et al., 2017; Friske et al., 2010).

RATIONALE

Prejudice and discrimination are detrimental to students' development and well-being. In addition, they remain commonplace in the lives of individuals from nonmajority/nondominant racial, ethnic, sexual orientation, and religious groups; women; and other minoritized groups (see for examples, Arellano-Morales et al., 2015; Bucchianeri, Gower, McMorris, & Eisenberg, 2016; Katz-Wise & Hyde, 2012; McCord, Joseph, Dhanani, & Beus, 2018; U.S. Department of Justice, 2016). Coupled with other common types of prejudice and discrimination against nondominant groups (e.g., classism, sexism, heterosexism, homophobia, Islamophobia, xenophobia, and nationalism), the framework of *intersectionality* is used to identify the ways in which various social statuses are experienced simultaneously and may have additive or compounding effects on individuals' outcomes (Cole, 2009). Intersectionality is also helpful for understanding how social statuses or differences interact to influence learning, behavior, and social inequality.

NASP believes that prejudice and discrimination harm all people, but especially children and youth, and our society at large. Prejudice and discrimination are negatively associated with the physical well-being, mental health, and adaptive functioning of individuals from nondominant racial/ethnic groups, religious communities, sexual orientations, cultural groups, immigrants, and other intergroup contexts (e.g., Bailey et al., 2017; Brown, 2015; Lee & Ahn, 2012; Meyer, 2003; Pascoe & Smart Richman, 2009; Paradies et al., 2015; Samari, 2016; Schmitt, Branscombe, Postmes, & Garcia, 2014). Discrimination has harmful effects whether experienced directly, online (Tynes et al., 2008), or vicariously (Heard-Garris et al., 2018), and across the lifespan (National Research Council, 2014). In addition, integrated educational settings where nondiscrimination is practiced are associated with positive educational, social, and cognitive outcomes for *all* students—both majority and minoritized group members—as well as long-term educational, economic, and civic outcomes (Kirwan Institute, 2009; Wells, Fox, & Cordova-Cobo, 2016). This strong research base supports NASP's commitment to mitigating the effects of discrimination in all forms.

Decades of social psychology research indicate that promising approaches to reducing prejudice and discrimination include:

- increasing intergroup contact;
- working to foster greater empathy and perspective-taking when interacting with others;
- engaging in open dialogue about issues of difference in order to increase compassion and dispel stereotypes; and
- reducing the salience of group boundaries by emphasizing commonalities (American Psychological Association, 2012; Beelmann & Heinemann, 2014; Pettigrew & Tropp, 2006, 2008).

Other school-based approaches to reducing and preventing discrimination include:

- crafting antidiscrimination and antiharassment policies that protect a variety of sociodemographic groups;
- transforming social norms to express the value of a plurality of identities and modes of identity expression;
- promoting cooperative learning to foster intergroup contact;
- establishing written procedures to guide referral of students for special education, providing training to properly implement those procedures, and regularly reviewing school data for instances of discrimination;

- requiring staff to participate in cultural awareness or implicit bias training to better understand how to identify and overcome racial stereotypes;
- and collecting and analyzing school and disaggregated discipline data to act on any identified racial/ethnic and special education disparities while implementing school-wide positive behavior supports (Horn & Romeo, 2010; Lhamon, 2016; Skiba, 2013).

ROLE OF THE SCHOOL PSYCHOLOGIST

School psychologists are committed to fairness and justice for all as they help to preserve the dignity of all individuals in their professional practices and interactions (NASP, 2010a). Developed in consultation with a diverse cadre of school psychologists, including practitioners, faculty, and social justice researchers, and adopted by the NASP Leadership Assembly in September 2017, the following definition operationalizes social justice and informs NASP’s commitment to advancing this central principle of contemporary school psychological practice (NASP, 2017):

Social justice is both a process and a goal that requires action. School psychologists work to ensure the protection of the educational rights, opportunities, and well-being of all children, especially those whose voices have been muted, identities obscured, or needs ignored. Social justice requires promoting nondiscriminatory practices and the empowerment of families and communities. School psychologists enact social justice through culturally responsive professional practice and advocacy to create schools, communities, and systems that ensure equity and fairness for all children and youth.

Relatedly, NASP is committed to supporting the educational and mental health needs of all students, regardless of race, culture, linguistic background, sexual orientation, gender identity, gender expression, socioeconomic status, nationality, citizenship, disability, educational need, or other dimensions of difference. All school psychologists, regardless of the settings in which they serve, are charged with advocating for culturally responsive, evidence-based practice, and with assisting their colleagues and professional communities with reforming policies and practices that contribute to inequitable outcomes (NASP, 2009). Further, NASP’s standards (NASP, 2010a, Standard I.3.1; 2010b) call for school psychologists to promote fairness and justice by cultivating safe, welcoming, and inclusive school environments. The following recommendations are offered for school psychologists in order to foster social justice and mitigate racism and other forms of prejudice and discrimination.

Professional Learning Recommendations

- School psychologists engage in continuous professional learning to ensure their knowledge, skills, and clinical practices reflect understanding and respect for human diversity and promote effective services, advocacy, and equitable outcomes for all children, families, schools, and communities.
- School psychologists actively learn about the different groups represented in their schools and communities-at-large, and they use knowledge of this diversity to facilitate the services provided in and out of school.
- School psychologists engage in critical reflection to identify their own biases and ensure that they do not negatively affect students, families, schools, and communities.
- School psychologists encourage and support their colleagues in necessary critical reflection about the intersection of various dimensions of difference, power, privilege, and discrimination that contribute to disparities.

- School psychologists seek supervision or consultation when dealing with unfamiliar clients or situations, or when facing circumstances that otherwise challenge their multicultural competence or nondiscriminatory practice skills.
- School psychologists seek effective and ongoing professional development and other resources regarding evidence-based practice, cultural responsiveness, advocacy, and self-reflection.

Professional Practice Recommendations

- School psychologists practice in accordance with the principles of social justice, intentionally considering the manner in which students, families, schools, and communities interact with interconnected systems (American Psychological Association, 2017; Miranda, 2014) and how they experience systemic factors such as racism, prejudice, and discrimination that contribute to various inequities.
- School psychologists intervene when they are bystanders to discrimination and harassment directed at students or adults from marginalized backgrounds—and prepare others to do so as well—in order to disrupt and prevent discriminatory behavior in schools.
- School psychologists partner with families, community members, teachers, staff, and, when developmentally appropriate, students to understand more clearly student and population needs.
- School psychologists ensure their practices are grounded in an evidence-based framework (e.g., Indigenous Conceptual Framework; Charley et al., 2015) that integrates: (a) the best available research evidence and (b) a thorough knowledge of how diversity factors may influence child development, behavior, and school learning to engage in culturally responsive practice—even when this requires challenging common practices.
- School psychologists work to establish positive, productive, and collaborative relationships with students, families, and colleagues from all backgrounds.
- School psychologists assist administrators in evaluating current practices, policies, and procedures (e.g., discipline disproportionality through the lens of suspensions and expulsions, referral for special education eligibility) to determine overall effectiveness and any potential disparities in access, participation, or outcomes among students from different groups.
- School psychologists promote systems change and equitable alternatives when ineffective or inequitable policies, practices, or procedures are suspected or identified by school data.

In sum, school psychologists strive to ensure that all children and youth are valued, that their rights and opportunities are protected in schools and communities, and that they have equal opportunity and access to participate in and benefit from school programs, including school psychological services. In their words and actions, school psychologists promote positive school climates that are safe and welcoming to all persons regardless of actual or perceived characteristics, across various dimensions of difference (NASP, 2010a).

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Approved by the NASP Leadership Assembly June 2019.

Acknowledgement of position statement writing team members: Charles Barrett (Cochair), Amanda Sullivan (Cochair), Elvina Charley, Priscilla Kucer.

Please cite this document as:

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HB-1775

Submitted on: 1/31/2022 1:44:55 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laurie Field	Planned Parenthood Alliance Advocates	Support	No

Comments:

Planned Parenthood Alliance Advocates supports HB 1775 to ensure compliance with Title IX and provide Hawaii's students with safe campuses and non-discriminatory treatment.



To: Representative Woodson, Chair
Representative Kapela, Vice Chair
House Committee on Education

Re: **HB 1775, relating to civil rights**
2:00 PM, February 1, 2022

Chair Woodson, Vice Chair Kapela, and committee members,

On behalf of HCAN Speaks!, thank you for the opportunity to **testify in support of House Bill 1775, relating to civil rights.**

While we celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act, also known as Title IX, it is appropriate that we move forward to adopt and implement the activities in this bill to uphold the intention of that landmark legislation.

Specifically, this bill:

- Specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, Hawaii Revised Statutes, prohibited discrimination in state educational programs and activities
- Requires educational institutions and programs receiving state fund to adopt written policies and undertake other specified enforcement actions no later than 1/1/2023
- Require annual reporting to the legislature on the number and types of Title IX cases received by the department of education, public charter schools, and the University of Hawaii and other relevant information

Hawai'i should ensure a student has the ability to learn and have access to educational programs without fear of violence or bias. For many students, school is a safe place. Let's make it a safe place for all students.

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

Thank you,

Kathleen Algire
Director of Early Learning and Health Policy

HB-1775

Submitted on: 1/29/2022 3:04:23 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dorothy Norris	Individual	Support	No

Comments:

My name is Dorothy Norris and I am a resident of Kailua Kona. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

HB-1775

Submitted on: 1/29/2022 3:45:47 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ronja Steinbach	Individual	Support	No

Comments:

My name is Ronja Steinbach and I am a student at the University of Hawai‘i at Mānoa. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

I know too many friends who have not been adequately protected and I myself have experienced Title IX-qualifying situations without receiving the support that I needed. It is alarming that the number of reported cases of sexual harassment have increased, according to the campus climate survey, but sadly I am not surprised. The changes to Title IX during the Trump administration also severely weakened this important Law. Therefore, I am in favor of HB1775 because it is a first step in addressing some of the systemic difficulties that we are facing.

Mahalo for hearing this important bill and please pass it.

HB-1775

Submitted on: 1/30/2022 9:53:15 AM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Renee Rabb	Individual	Support	No

Comments:

Testimony in support of HB1775, Hawaii State Title IX

Good day.

My name is Renee Rabb and I live in Hawaii Paradise Park on Big Island. I am appreciative that the legislature is creating additional state protections to shield people from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking. Patsy Mink would be proud.

As we continue to learn, each state must develop state-level safeguards against discrimination as we cannot depend upon national mandates that may be subject to the whims of an unstable President. Young women in particular merit our attention as Title IX was designed to level the playing field and allow women to develop their full potential. Survivors of sexual harassment and assault deserve to know that the state of Hawaii is on their side.

Mahalo for hearing this important legislation. I ask for your vote in support.

Renee Rabb

District 4, Precinct 1

HB-1775

Submitted on: 1/30/2022 11:20:15 AM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rosemarie Muller	Individual	Support	No

Comments:

Aloha

My name is Rosemarie Muller and I am a resident of Keaau, Hawaii. I support this bill because all students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking in our schools and universities.

Mahalo

Hearing Date: February 1, 2022
2:00 pm, Room, 309 – Via Videoconference

To: House Committee on Education
Chair, Representative Justin H. Woodson
Vice Chair, Representative Jeanne Kapela

From: Jean Evans, MPH (Individual, jevans9999@yahoo.com,
808-728-1152, 99-1669 Hoapono Pl., Aiea, HI 96701)

Re: TESTIMONY IN SUPPORT OF HB 1775, Relating to Civil Rights

My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies and received both my baccalaureate and graduate degrees from the University of Hawaii at Manoa.

I am in strong support of HB 1775 which will codify the protections for student survivors of sexual harassment and assault and the enforcement of all aspects of Title IX.

The previous federal administration's decision to reverse the federal government's active stance on upholding the investigation of campus sex assaults and harassment was very troublesome. Discrimination based on sexual orientation and gender identity can lead to overt bullying, and ultimately unequal educational opportunities. The college experience is a time where students expand their knowledge and prepare for careers. It can also be a stressful time especially if young women and transgender students are fearful. While the current administration has made strides to stand by the Title IX requirements, there is not guarantee that future administrations will do so.

I believe this bill will help assure that Hawaii continues to remain a leader in civil rights and follow in the footsteps of Patsy T. Mink in this 50th anniversary year of the passing of Title IX. It is imperative that Hawaii puts into law the protections of Title IX.

Mahalo for allowing me to submit my testimony today.

To: House Committee on Education, Chair Woodson, Vice Chair Kapela, and Committee members
Date: February 1, 2022, 2PM
Re: Testimony in STRONG SUPPORT of HB 1775

Thank you for considering this testimony in Strong Support of HB 1775.

I am delighted to see that the Women's Legislative Caucus has dedicated its 2022 package to Patsy T. Mink to mark the fiftieth anniversary of the Patsy T. Mink Equal Opportunity in Education Act known as Title IX. Gender equity continues to be a priority for Hawaii's students and HB 1775 is necessary to promote equity in education.

Passing a Title IX bill into Hawaii State law was an important first step. But we know that administrations can roll back protections by changing administrative regulations or providing new guidance. It is critical that Hawaii's students are assured gender equity in our schools by codifying procedures and protections and passing HB 1775.

Thank you.

Amy Monk

Aloha, my name is Anna Ezzy, I am a resident of Hā'iku, Maui and a student. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

In Hawai'i, according to the 2019 UH climate survey, 12.7% of students experienced sexual harassment and 21.3% experienced dating or domestic violence. These numbers represent an increase from the 2017 UH climate survey and pose a serious threat to our haumana and next generation of leaders. This bill will allow us to catch key data points on how the Title IX system is currently functioning by requiring annual reporting on the number and types of cases.

2022 is the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act - also known as Title IX - co-written by our own leader, Patsy Mink. While great strides have been made for women and girls for equal access in education, the lack of enforcement of Title IX maintains widespread gender-based harassment, sexual assault, dating violence, domestic violence, and stalking in our public schools and universities. Passing HB1775 will move our state closer to fully realizing Patsy Mink's legacy.

Mahalo for hearing this important bill and please pass it.

Signed,

A handwritten signature in cursive script that reads "Anna Ezzy". The signature is written in black ink and is positioned below the word "Signed,".

Anna Ezzy

HB-1775

Submitted on: 1/31/2022 7:43:30 AM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Avery Bryce	Individual	Support	No

Comments:

My name is Avery and I am a resident of Makawao. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

Mahalo for hearing this important bill and please pass it.

Regarding HB1775

Aloha,

My name is Laura Ezzy and I am a 40 year resident of Hā'iku, Maui. I concur that our community of Hawaii needs Title IX enforcement and protections for student survivors of harassment and assault.

Current Federal weakening of enforcement and protections within Title IX directly impacts student survivors' access to education.

I am asking you to please hear and pass Hawaii State Title IX HB1775 to codify the protections for student survivors of sexual harassment and assault here in Hawaii.

We need everyone in our community to have access to education.

Mahalo Nui Loa,

A handwritten signature in black ink, appearing to read 'Laura Ezzy', written in a cursive style.

Laura Ezzy LSW

HB-1775

Submitted on: 1/31/2022 1:39:36 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Liza Ryan Gill	Individual	Support	No

Comments:

Aloha Chair and members of the committee,

My name is Liza Ryan Gill and I am a resident of Honolulu on Round Top Drive. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

As a survivor of sexual harassment and intimidation by a mentor/employer during my graduate studies I can personally attest to the need for the strongest possible protection for students.

Mahalo for hearing this important bill and please pass it.

Sincerely,

Liza Ryan Gill

Round Top Drive

Honolulu, HI

HB-1775

Submitted on: 1/31/2022 1:43:34 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Janet Morse	Individual	Support	No

Comments:

Dear Representatives Justin H. Woodson, Chair, Jeanne Kapela, Vice Chair and members of the Committee:

Rules adopted in 2020 by the Department of Education significantly diminished the rights and protections for students and employees under Title IX.

One rule limits the application of federal Title IX policies to persons in the United States. This means that students participating in international study abroad programs are no longer protected under federal Title IX rules.

This rule struck me on a personal level because my daughter, a Kailua High School graduate, spent time abroad during her sophomore year in college. She was not the victim of a sexual attack (though she did have a somewhat scary experience of a tour guide grabbing her from behind in imitation of Jack the Ripper).

I support HB 1775 because I think that students like my daughter should have the protections of Title IX while participating in covered education activities at home or abroad.

I support HB 1775 because I believe that all students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

Mahalo for hearing this important bill and please pass it.

Janet Morse, Kailua

HB-1775

Submitted on: 1/31/2022 1:55:46 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rebecca Koeroessy	Individual	Support	No

Comments:

My name is Rebecca Koeroessy and I am a resident of Honolulu. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities. Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX. We have seen many positive results directly because of Title IX but the fight for equality is not over. We still have to actively fight against sexual violence and work on diversity incentives and keep changing education for the better.

Mahalo for hearing this important bill and please pass it.

HB-1775

Submitted on: 1/31/2022 1:59:28 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Woodson, Vice Chair Kapela and the Committee on Education,

My name is Caroline Kunitake and I am a resident on Honolulu, HI. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking in our schools and universities.

During graduate school, I was stalked by a mentally ill gentleman for over five months. He left gifts at the dorm front desk. He constantly called the phone in my room and I requested to have my phone number changed, He sent love letters stating that "God destined us to be together." Although I had issued a temporary restraining order against him, he didn't understand what the temporary restraining order was for and continued to visit the dorm where I resided.

It was an eye opening experience and a challenge to maintain a high GPA and feel physically safe on campus. I needed to adjust my routine (change up my schedule so that he couldn't predict when I would be walking back to the dorm), make sure that all the routes that I took on foot had other people present and that I constantly carried a charged cell phone so that I could contact someone if I was in trouble. I was relieved emotionally, physically and mentally when the stalking stopped and I'm so grateful for the friends, instructors and community leaders who helped me while I was his target. Fortunately I was not sexually or physically assaulted.

Later I learned that he had sexually harassed and stalked other women. I wasn't his first target, but I was the only target that had enough courage to report him to the police so that he would have some sort of police records. I'm sure that the majority of the sexual assaults and stalkings go unreported on campus because it takes a lot of time and energy away from study.

Please support HB1775. We need to improve the Hawaii State Corollary providing Title IX enforcement and protections for student survivors of sexual harassment and assault.

Mahalo,

Caroline Kunitake

HB-1775

Submitted on: 2/1/2022 12:35:40 PM

Testimony for EDN on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Linda Elento	Individual	Comments	Yes

Comments:

Aloha, I believe HRS386-1.5 gives the HCRC jurisdiction over a student's complaint of disability discrimination against the state-funded educational activity/school. It is only appropriate to clarify and include disability discrimination (pursuant to Sec. 504 of the Rehab. Act/ADA Title II) in the listing of prohibited covered educational program or activity in HRS368D-1 (HB1775 Page 23, Line 10) or simply added in HRS368D-1 after (e).