



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

**Date:** 02/21/2020  
**Time:** 11:00 AM  
**Location:** 308  
**Committee:** House Finance

**Department:** Education

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

**Title of Bill:** HB 1529, HD1 RELATING TO STUDENT JOURNALISTS.

**Purpose of Bill:** Allows student journalists at public schools to exercise freedom of speech and freedom of the press in school-sponsored media. Takes effect on July 1, 2050. (HD1)

**Department's Position:**

The Department of Education strongly values student voice and encourages students to be fully engaged in their own learning, including civic engagement. Respectfully, the Department provides comments on HB 1529, HD 1 and in particular would like clarification on concerns raised in the House Committee on Lower and Higher Education in regards to liability.

Preparing our students to be global citizens requires them to master the ability to think critically, communicate effectively and take informed action. The following Board of Education (BOE) policies are pertinent to the proposed measure and extend students' rights to express or voice their positions:

- BOE Policy 101-1, Student Code of Conduct, acknowledges the Student Bill of Rights and Responsibilities. This Bill of Rights addresses Freedom of Expression and Communication by stating, "students shall have the right to hear and express publicly, various points of view on subjects without fear of reprisal or penalty. However, students recognize the rights of others and the limitations imposed by the laws of libel, slander, obscenity and incitement to riot.
- BOE Policy 101-9, School-Sponsored Student Publications, notes that "students of the public schools have the right of expression in official, school-sponsored, student publications." Further, "student publications are considered, in part, a laboratory for learning, as students are still in the process of learning the skills and processes of effective and responsible communication, and are considered to be still in need of guidance and supervision."
- BOE Policy 101-13, Controversial Issues, states, "Student discussion of issues which generate opposing points of view shall be considered a normal part of the learning process in every area of the school program. The depth of the discussion shall be determined by the maturity of the students. Teachers shall refer students to resources reflecting multiple and

diverse points of view. Discussions, including contributions made by the teacher or resource person, shall be maintained on an objective, factual basis. Stress shall be placed on learning how to make judgements based on facts."

Teachers and Administrators allow for controversial issues and should maintain the ability to give students opportunities to learn and consider contributions before publication.

Given the expanded opportunities to promote student agency, it is critical that all schools continue to balance the intellectual and social development of their students with freedom of expression. With that said, the Department recognizes the passage of New Voices laws in 14 states (Arkansas, California, Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, North Dakota, Oregon, Rhode Island, Vermont and Washington) and codes protecting the rights of student journalists in the District of Columbia and Pennsylvania and will continue to review and gather feedback on this measure.

Finally, as raised by the House Committee on Lower and Higher Education in their committee report, the Department would like clarification on the Department's liability in any civil or criminal action for the publication of material by student journalists in the exercise of rights under this measure.

Thank you for this opportunity to provide testimony on HB 1529, HD 1.

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](http://www.hawaiipublicschools.org).



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SUBJECT: Support for HB 1529 HD1, Relating to Student Journalists

February 19, 2020

Dear Chair Luke and Members of the House Committee on Finance,

I am Jay Hartwell, President of the Hawaii Publishers Association, whose members produce magazines, newspapers, printed and online content for the state of Hawai'i. The Association urges you to pass HB 1529 HD1.

For 51 years, the Newspaper in Education program and then the Hawaii Publishers have sponsored the annual Hawai'i High School Journalism Awards with support from the Honolulu Star-Advertiser.

We sponsor this competition, because we believe that high school journalism programs provide students with the best, hands-on opportunities to learn about research, fact-checking, and communication. We also believe that competing against other schools challenges student journalists to produce their best work.

Imagine what that competition would be like if the state's principals told their students they could not publish stories because of concerns about the content. How do you strive to be the best when you are not given a chance or know that you will NOT be given a chance?

How do I know this is a problem? For 20 years, I advised the student-led media programs at the University of Hawai'i at Mānoa, which included KTUH, Ka Leo, Hawai'i Review. UH sponsored an annual Journalism Day so high school students could learn what it takes to produce the best stories. At those journalism days, students and their advisers shared how some of their principals prevented them from publishing stories.

Today, I come to you as President of the Hawaii Publishers Association, which urges you to pass this bill. But I wasn't always a president. I wasn't always an adviser to UH student media, or a reporter for the morning newspaper. Forty-nine years ago, I was a new sophomore at Kailua High School. I didn't know anybody or anything. But I found the office of The Surfrider and during the next three years learned how to report, write stories, take photographs, design pages, and advocate for our students when the Department of Education decided to end our modular scheduling.

That experience led to work on my college newspaper, an internship at the Star-Bulletin, graduate school at Columbia, a job back home at The Advertiser and now I am able to provide testimony as president of the Hawaii Publishers Association.

What might have happened to me or Paul Brewbaker or Kathy Kawamoto or Bryan Sabin if our Principal Flora Takekawa had said no, instead of yes.



Feb. 21, 2020

Rep. Sylvia Luke  
House Finance Committee  
Honolulu, HI 96813

Re: House Bill 1529, HD1

Chairwoman Luke and Committee Members:

The Hawaii Professional Chapter of the Society of Professional Journalists supports this bill.

It is important for student journalists to inform students, parents, teachers and many times the surrounding community about news in the school without fear of censorship.

Young people should be free to find out things so they can learn how to function in a democracy. Toe-ing the line as administrators want is not the way of teaching them about society.

Stepping on the civil rights of student journalists also is not the way to tell young people how they should learn about responsible, free expression and how to “do their jobs” in the community and society when they become adults.

This bill does not grant unfettered license to student journalists. It guards against libel and slander; invasion of privacy; obscenity; and inciting violent acts.

I am sure you will agree that we don’t want students growing up to be unthinking robots, and performing journalism under the threat of censorship or discipline could stifle the free flow of ideas.

Thank you for your time and attention,

Stirling Morita  
President, Hawaii Professional Chapter of the Society of Professional Journalists



**TESTIMONY IN SUPPORT OF HB 1529 - RELATING TO STUDENT JOURNALISTS;  
FREEDOM OF SPEECH AND THE PRESS  
February 21, 2020**

The Student Press Law Center (SPLC) is an independent, non-partisan organization that, since 1974, has helped students of all ages participate in civic life and learn essential skills, ethics and values through the vehicle of journalism. Our legal hotline provides free services to student journalists and advisers. As such, we see daily the significant need for this legislation and urge your approval of HB 1529.

Fourteen states<sup>1</sup> have adopted student press freedom laws like HB 1529; another ten are actively considering adoption of similar measures. None have identified a fiscal impact associated with such legislation. With more than 100 combined years of history with these laws the verdict is clear; student press freedom laws do not impact the safety of the school or keep administrators from making the right decision. In no state has there been an outbreak of unethical journalism or lawsuits. Not a single school has had a libel lawsuit.

Hawaii's students want to tell the stories that matter to them, their peers and their communities, but for more than a generation they have come of age under a U.S. Supreme Court decision, discredited by every journalist education organization in America, that guarantees them less freedom to tell these stories than that of every other student on campus.

While most student speech is evaluated under the legal precedent established in the 1969 *Tinker v. Des Moines* ruling, student journalists are held to a much higher standard solely because they are engaging in media. In 1988, the U.S. Supreme Court ruled in *Hazelwood School District v. Kuhlmeier* that a school may censor a student journalist when "reasonably related to legitimate pedagogical concerns." Unfortunately, the "pedagogical concerns" under which student media is censored are rarely articulable, often subjective and rooted in the discomfort of administrators and not the needs of students. Student journalists can be and are censored for virtually any reason.

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<sup>1</sup> Arkansas, California, Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nevada, North Dakota, Oregon, Rhode Island, Vermont, Washington.

Nationwide, SPLC has seen yearbooks censored because students wore MAGA shirts or the swim team wore bathing suits, journalists censored because their work spoke of graffiti visible to all students or of the drug use happening during school hours, and administrators cracking down on stories providing oversight into their own activities. Award-winning teachers have been reassigned or fired for refusing to censor their students. And students have begun to doubt their ability to tell the truth, and self-censor out of fear for them and their teachers.

There are instances in which administrators must exert authority to keep their students safe and the school day orderly. HB 1529 protects that authority; school officials can step in, for example, when there are concerns about the legality of the student media or the media will be demonstrably disruptive to the school environment - the same *Tinker* standard they apply for all other students. For more than a generation, the *Hazelwood* decision has saddled student journalists with less freedom of speech solely because they are journalists; HB 1529 simply restores equal expectations and rights to all students.

The reality of *Hazelwood* censorship is not that students do not grapple with the issues that make adults nervous, it is simply that they do so in secret, disempowered by their administrators and made wary of the sort of discourse we ask them to be capable of the moment they leave our schools and become our civic leaders. When students do push against censorship, it is often their advisers who pay a heavy professional price. HB 1529 will enable student journalists to tell the truth without fear of reprisal, will protect the advisers who support them, and will help Hawaii's schools fulfill their mission to produce the engaged thinkers ready to be our next generation of leaders.

As unchecked social media runs rampant, student journalists today want to ensure a thoughtful and thorough pursuit of the truths that matter to them and their peers. Yet as we lecture students in class on how to be civic-minded critical thinkers, thirty years of *Hazelwood* has bred curiosity and confidence out of our students. Today's new voices are tomorrow's media leaders and citizens; we can no longer afford to stifle them.

Thank you for your support of Hawaii's students. Please support HB 1529.

**HB-1529-HD-1**

Submitted on: 2/19/2020 8:58:12 PM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By         | Organization  | Testifier Position | Present at Hearing |
|----------------------|---|--------------------|--------------------|
| Tiffany Edwards Hunt | writer, teacher, and adviser for UH Hilo student newspaper Ke Kalahea | Support            | No                 |

Comments:

Aloha,

I'm writing to express my support for this bill and for any and all efforts to support journalism, and specifically student journalism. Once upon a time, I earned a living as a journalist. Now I teach and advise. So, I of course, am very happy to see you put forth this legislation and support budding journalists. Now, more than ever, we see the virtue of the Fourth Estate and conducting the public's business in the light of the day.

Thank you for any and all efforts to help journalists do a very difficult job, protecting the public's right to know.

With sincerest aloha,

Tiffany Edwards Hunt

Puna, Hawaii



**All Hawaii News \* P.O. Box 612 \* Hilo, HI 96721 \* [www.allhawaiinews.com](http://www.allhawaiinews.com)**

**Feb. 19, 2020**

**House Finance Committee**

**From: Nancy Cook Lauer, publisher, All Hawaii News**

**[www.allhawaiinews.com](http://www.allhawaiinews.com) [nclauer@gmail.com](mailto:nclauer@gmail.com) 808.781.7945**

**In STRONG SUPPORT of HB 1529 HD1, Relating to Student Journalists**

All Hawaii News, a state government and political news aggregate blog covering Hawaii since 2008, supports HB 1529 HD1 recognizing that journalists in public schools have the same First Amendment rights as other journalists in this great nation founded on the principles of free speech and a free press.

Now more than ever, a free press is vital to a strong democracy. Student journalists cover issues and events important to the student body and the community. They provide an independent voice that helps expose concerns in their schools and in their local communities. We must not hamper or extinguish their voices; instead we must nurture them and help create the next generation of strong journalists.

The bill, as amended, carries safeguards including: "Nothing in this section shall be construed to prevent a student media advisor from teaching professional standards of English and journalism to student journalists or determining grades and credit for such purposes." It also guards against libel and slander, invasion of privacy, obscenity and inciting violent acts.

**Mahalo nui for considering HB 1529 HD1.**

February 19, 2020

Aloha, Rep. Sylvia Luke, Chair; Rep. Ty J.K. Cullen, Vice Chair; and members of the House Committee on Finance.

I am writing to reiterate my **strong support** of HB1529 Related to Student Journalists.

I am a former Editor in Chief of Ka Leo O Hawaii (UH Manoa) and Ke Kalahea (UH Hilo), and former high school student journalist at Trojan Times (now Mililani Times) at Mililani High School.

We are in the midst of a period of American history where the role of journalists is both more important than ever, and yet under constant attack by both political and market forces. We need to be fostering the next generation of truth seekers, investigators, and storytellers to continue to function as a critical check on both government and corporate overreach, as well as to document the trials and triumphs of our local communities.

**Students need to experience first-hand the rights and responsibilities that come with sustaining a free press. Prior restraint is unacceptable at all levels of journalism practice.**

Certainly, freedom of the press and freedom of speech does not mean freedom from consequences. And student journalists need to have an objective and realistic understanding of the impact of the things they publish and broadcast. And that's where the experience and engagement of professional advisors are critical.

My tenure as editor of the then-daily Ka Leo ended after a newly implemented term limit by the UH Board of Publications. My student colleagues and I then launched an alternative campus paper. The dispute over distribution of this alternative newspaper on campus ended up at the center of a First Amendment fight between us and the UH administration – a dispute in which we ultimately prevailed. Yet the conflict was not without its consequences, and our publication dissolved months later.

This experience, as a student as well as a journalist, is exactly the sort of real-world challenges tomorrow's journalists will face. Let us not inhibit their growth, whether to protect them or to protect "us."

Mahalo for your consideration.

**HB-1529-HD-1**

Submitted on: 2/19/2020 10:40:01 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By  | Organization | Testifier Position | Present at Hearing |
|---------------|--------------|--------------------|--------------------|
| Cynthia Reves | Individual   | Support            | Yes                |

Comments:

**Dear Chair Luke and Finance Committee,**

**My name is Cindy Reves and I advise the student-run newspaper at McKinley High School and I support HB1529 HD1 to protect the First Amendment rights of student journalists in Hawaii.**

**Laws just like this one already exist in 14 states and are being introduced in 17 more. This bill has educational value and is supported by the Journalism Education Association, the National Council of Teachers of English, and the Association for Education in Journalism and Mass Communication. It is supported by those whose ranks we are preparing our students to join, such as the American Society of News Editors and the Society of Professional Journalists. Finally, it has legal support from the American Bar Association.**

**As a journalism adviser, I teach my student journalists press law, news value, and journalistic ethics. I tell them about Tinker, where the Supreme Court said neither student nor teacher “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”**

**McKinley’s student staff write about what they feel our community needs to know. When they need an adult’s advice, they come to me. Editors make the publication decisions. I tell them that the best defense against censorship is good journalism. At McKinley, I am lucky that my administrator understands all this and supports what I do with the student newspaper.**

**However, I also tell my students that, in 1988, the Supreme Court restricted the First Amendment rights of one group of students, student journalists. If McKinley gets a new administrator or outside pressure causes our current administrator to reconsider his position, current law allows him great latitude to censor them. Hawaii needs a law that protects the First Amendment rights of student journalists and allows them the real-world learning that comes from making the decisions that must be made to produce a student-run newspaper.**

**Many worry that this bill will put schools and/or student journalists in legal danger. There is no evidence of this, according to student press law experts.**

**What is true is that, without this bill, administrators are censoring the First Amendment rights of student journalists in Hawaii. While my students do not face censorship, in my role as president of the Hawaii Scholastic Journalism Association, I hear stories of Hawaii administrators whose actions show they do not trust student journalists and their advisers.**

**1. A high school administrator did not allow the student media to run an opinion piece about the n-word. Here are the last sentences of that piece: “The n-word should always be a huge social taboo because of its historical origin and usage; however, society is beyond the point of that. If certain individuals want to continue using the word, then the general public must learn how to comprehend its given context to react in an appropriate manner.” This is a nuanced reflection on an issue that matters.**

**2. A high school administrator didn’t want editorials published unless they were in Pro/Con format. Two that gave the adviser and staff the most difficulty: an editorial about how a student hates Thanksgiving and an editorial criticizing Trump’s cabinet picks.**

**3. A high school administrator asked the following questions during prior review with the adviser: “Why is this phrased this way? Why is this article about things that Trump has done called a ‘quick and dirty run down’? Some of these measures didn’t pass so why report on them? Why is this statistic phrased this way? Why is this the title of this article?”**

**4. In a high school that has prior review, the administrator held on to the paper so long that the student staff decided it was too late to send it to the printer, so they published that issue online only.**

**5. A college newspaper didn’t cover an issue for fear it would get their adviser in trouble.**

**6. A high school journalism adviser had been attending meetings which included discussion of student press rights legislation but stopped attending for fear of angering administration**

**What is also true is that student journalists serve an important role in our democracy. If they see injustice at their school and do not report on it, who will? If the leaders in Hawaii truly value student voice and the student press, they have to raise the bar and allow Hawaii’s student journalists to really practice journalism. My student journalists at McKinley will do the hard work because they know a well-reported story won’t get killed simply because an administrator doesn’t like it. That’s not how journalism works and that’s not how our schools should work.**

**I urge you to support HB1529 HD1.**



**HB-1529-HD-1**

Submitted on: 2/19/2020 10:37:52 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier<br/>Position</b> | <b>Present at<br/>Hearing</b> |
|---------------------|---------------------|-------------------------------|-------------------------------|
| Kelly Cheng         | Individual          | Support                       | No                            |

Comments:

Dear Chair Luke and Finance Committee,

My name is Kelly Cheng and I am a student journalist. I support HB1529 HD1 to protect the First Amendment rights of student journalists in Hawaii.

**HB-1529-HD-1**

Submitted on: 2/19/2020 10:38:00 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier<br/>Position</b> | <b>Present at<br/>Hearing</b> |
|---------------------|---------------------|-------------------------------|-------------------------------|
| Ryan Vanairsdale    | Individual          | Support                       | No                            |

Comments:

Dear Chair Luke and Finance Committee,

My name is Ryan Vanairsdale and I am the editor for The Pinion, McKinley High Schools student newspaper. I am voicing my support for HB1529 HD1 to protect the rights of student journalists in Hawaii.

**HB-1529-HD-1**

Submitted on: 2/19/2020 10:38:19 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier<br/>Position</b> | <b>Present at<br/>Hearing</b> |
|---------------------|---------------------|-------------------------------|-------------------------------|
| chengHong He        | Individual          | Support                       | No                            |

Comments:

Dear Chair Luke and Finance Committee,

My name is Cheng Hong and I am a student journalist. I support HB1529 to protect the First Amendment rights of student journalists in Hawaii.

**HB-1529-HD-1**

Submitted on: 2/19/2020 10:39:14 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier<br/>Position</b> | <b>Present at<br/>Hearing</b> |
|---------------------|---------------------|-------------------------------|-------------------------------|
| An Vo               | Individual          | Support                       | No                            |

Comments:

Dear Chair Luke and Finance Committee,

My name is An Vo and I am a student journalist. I support HB1529 to protect the First Amendment rights of student journalists in Hawaii.

**HB-1529-HD-1**

Submitted on: 2/19/2020 10:42:40 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Nyler Acasio | Individual   | Support            | No                 |

## Comments:

**My name is Nyler Acasio. I am a student journalist at McKinley High School. Let me tell you how we decide what to write about. First, we must determine if the topic is newsworthy. We use this system called TIPCUP which means, timeliness, impact, proximity, conflict, unusual, and prominence. What this system does is determine if an article idea is newsworthy to write about. Then we must decide if it should be an editorial or a reported piece. An editorial is an article with the journalist's opinion like he/she is writing a review or writing about a person or group. A reported piece is an article consisting of other people's opinions and facts. As we do our reporting and writing, we keep the code of ethics in mind. In a nutshell it's basically four policies we follow. They are to seek truth and report it, minimize harm, act independently and be transparent. We also know we cannot libel anyone and that our work must be based on fact. We are not writing "whatever we want." We are writing about issues that matter to our community. This bill allows us to do this. Please support HB1529.**

**HB-1529-HD-1**

Submitted on: 2/19/2020 2:47:31 PM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Gerald Kato  | Individual   | Support            | No                 |

Comments:

Dear Chair Luke and Members of the House Finance Committee:

I write in support of HB1529 HD 1 Relating to Student Journalists.

I have been a working journalist in Hawaii and currently teach Journalism at the University of Hawai'i at Manoa. This bill proposes to extend the rights of freedom of speech and freedom of the press to student journalists in the public schools. As the Supreme Court of the United States famously said in the case of Tinker v. Des Moines (1969): "It can hardly be argued that either students or teacher shed their constitutional rights to freedom of speech at the schoolhouse gate." Unfortunately, in the years since the court made that declaration, federal laws and state laws and school administrators have threatened student journalists and publication advisers with censorship. The problems are well documented by the Student Press Law Center. This bill protects the rights and clarifies the responsibilities of all those involved in journalism in public schools, the students, advisers, and administrators. Now more than ever, we need young people engaged in the democratic process and need to respect their constitutional rights to freedom of speech and freedom of the press. Passage of this legislation lets students know that their voices matter and will be heard. There seems little in the way of financial implications in this bill, but what it conveys to students about the values of Freedom of Speech and of the Press is priceless. I support this bill and urge the committee to move it in its current form.

Sincerely,

Gerald Kato

Associate Professor

School of Communications

College of Social Sciences

University of Hawai`i at Manoa

**Testimony of Frank D. LoMonte, attorney and media-law professor**  
**House Bill 1529, the Hawaii Student Free Expression Act**  
**House Committee on Finance**  
**Submitted for committee hearing of February 21, 2020**

I thank the sponsors of House Bill 1529 for the invitation to share some information with the committee about the practice of student journalism and the legal climate in which student journalists and educators work. This testimony is drawn from my 20 years of experience as an attorney, including nine spent as executive director of the Student Press Law Center, a nonprofit legal-services organization serving the needs of student journalists and educators nationwide. I have studied and written about these laws for many years, including authoring two editions of a widely used textbook, “Law of the Student Press.” In my role at the Student Press Law Center, I supervised a hotline receiving some 2,500 calls for legal assistance yearly from students nationwide, many hundreds of whom are experiencing restraints on their ability to gather and publish news. I have taught media law to undergraduates and law students since 2014 as an instructor with the University of Georgia and University of Florida, where I now teach full-time. (This testimony is submitted in my personal capacity and not on behalf of any institution.)

The legal protection that is afforded to student journalists today under federal law is widely recognized as inadequate for the effective teaching of journalistic values and practices. The Supreme Court’s 1988 *Hazelwood* ruling has effectively removed all federal protection for the rights of students in journalistic media. After 32 years of experience under *Hazelwood*, every leading authority in the field of journalism education – both educators and professional practitioners alike – agrees that the right amount of press freedom in educational institutions cannot be “zero.” The Society of Professional Journalists, the American Society of News Editors, the National Council of Teachers of English, the American Bar Association, the National Council for the Social Studies and many other such organizations have called on states to reform the *Hazelwood* standard, because young people are graduating unprepared to have educated conversations about the social and political issues that censorship restrains them from discussing.

This growing consensus has fueled a national movement known as “New Voices,” to enact statutes that bring the governance of student media back to the sensible middle

ground that existed before *Hazelwood* was decided. Fourteen states now have laws comparable to HB 1529 protecting the ability of students to publish the lawful and non-disruptive editorial content of their choice. Pennsylvania and the District of Columbia offer the same level of protection by way of State Board of Education rule. One-third of all high-school students in America have the level of protection today that is contemplated in HB 1529, so there is nothing experimental or unproven about student press freedom laws. The combined experience of these jurisdictions covers more than 180 years, and in those 180 years, no “horribles” have materialized. There is not a single case available in any of the publicly available databases of court records dating back two centuries in which a school has been ordered to pay anyone a dollar for harmful material published by student journalists. And New Voices laws strengthen, not weaken, the liability protection for schools by clarifying that the speech of students is not the speech of their schools.

New Voices laws do not result in students prolifically suing their schools over censorship. A study published in the *Maine Law Review* in 2013 found only six documented instances in which a New Voices statute had ever been cited in a published court ruling (subsequent to 2013, there has been a seventh case, at a college in Illinois). It is our experience that New Voices statutes avoid, rather than cause, litigation because they clarify the boundaries of government authority and simplify resolving disputes. New Voices laws are advancing across the country with overwhelming bipartisan support because of the growing recognition that digital-age journalism can no longer be taught and practiced by 1980s-era standards.

Legislative reforms are timely because students at the high-school level regularly report being forbidden from publishing news and opinion about issues of social and political concern. In a March 2017 journal article (“Mixed Message Media: Girls’ Voices and Civic Engagement in Student Journalism”), University of Kansas researchers Peter Bobkowski and Genelle Belmas document their findings from a survey of 491 high-school journalism students across North Carolina. That survey found that 38 percent of students had been told that entire topics were off-limits for discussion in student journalistic publications, the most common being drug or alcohol abuse. The KU study further found that female students were significantly more likely than male students to report both direct censorship as well as “self-censorship” in anticipation of adverse reaction from authority

figures. More than half (53 percent) of female students said they had refrained from even attempting to write about an issue of importance to them, expecting to be censored.

Because this question has arisen in other states, I want to address the issue of how a state statute can “override” a U.S. Supreme Court decision. When the Supreme Court issues a ruling on the constitutional rights of individuals, the Court is setting a floor for states and not a ceiling. The *Hazelwood* ruling can be summarized as: “Students have the federally protected right to speak in ‘curricular’ student media unless the school can present a justification for censorship that is ‘reasonably related to legitimate pedagogical concerns.’” Nothing in *Hazelwood* precludes a state from offering state-protected rights that supplement federally protected rights. There is no “inconsistency” between the *Hazelwood* ruling and a state law like HB 1529 that gives students the benefit of additional state-protected press freedoms.

Because this Committee’s focus is on the financial impact of legislation, I should note that in none of the seven states that have enacted New Voices legislation like HB 1529 over the past decade (Illinois, North Dakota, Maryland, Washington, Vermont, Rhode Island, Nevada) has there been any need for, or request for, an appropriation to cover any cost associated with implementation, nor is there any report of any school or district incurring any meaningful expense. That is because the legal standard contemplated by HB 1529 is identical to the level of free-speech protection that has long existed in all other phases of a public-school student’s life, under the Supreme Court’s 1969 *Tinker v. Des Moines* standard, with which schools are familiar and comfortable. There is no need for any significant retraining or readjustment, as HB 1529 does no more than instruct schools to treat journalism as they have treated all other aspects of student speech for more than 50 years; reference and training materials about *Tinker* are widely and freely available.

This highlights an important point: New Voices statutes do not put the rights of student journalists on par with those of professionals at *The Wall Street Journal*. The Supreme Court has said that nothing short of leaking military battle plans during wartime might justify restraining the distribution of a professional newspaper. New Voices protection is much more limited. New Voices statutes simply restore the protection that existed before *Hazelwood* under the legal principles set forth by the Supreme Court in *Tinker*. *Tinker* is the standard that applies today to students’ baseball caps, T-shirts and all

other personal communications. Anything that a school could lawfully stop a student from saying on a T-shirt (*e.g.*, gang symbols, threats, obscenity or other disruptive speech) can equally be withheld from student news media under HB 1529.

In summary, *Hazelwood* is a relic of a time when it might have been possible to keep students from learning about teenage pregnancy by tearing pages out of newspapers. Of course, that is not the world we live in today. Young people are bombarded with online gossip, rumor and fabrication. By welcoming the discussion of political and social issues into the newsroom, those issues can be debated in a verified, supervised way – with fact-checking, with balance and with accountability, none of which exists if censorship pushes the discussion onto social media.

The American Bar Association endorsed the enactment of New Voices legislation in a resolution unanimously passed at its August 2017 national convention. I'll conclude with a portion from that resolution, which echoes the concern of civics-education experts everywhere that young people are graduating from school, and even college, unprepared for participatory citizenship:

“It is the consensus of every leading expert in journalism education that *Hazelwood* has fostered censorship for purposes of image control rather than education, and that *Hazelwood* has diminished the opportunity for students to make their voices heard. High-quality student journalism... gives marginalized students opportunities for recognition; it sheds light on ways in which schools are performing unsatisfactorily and could be improved; and it builds healthy news readership habits. Meaningful civic education requires that students feel safe and empowered to discuss issues of social and political concern in the responsible, accountable forum of journalistic media.”

Respectfully submitted,  
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# CHAVONNIE RAMOS

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**SUBJECT:** Support for HB 1529 HD1, Relating to Student Journalists  
Feb. 20, 2020

Aloha Chair Luke and Members of the House Committee on Finance,

My name is Chavonnie Ramos and I am writing in support of HB 1529 HD Relating to Student Journalists.

I am the current Editor in Chief at Ka Leo, the University of Hawaii at Manoa's student news organization and a News Intern at Hawaii News Now. My experience as a student journalist dates back to 2013 when I joined Waipahu High School's newspaper, The Cane Tassel.

Freedom of speech and censorship among student journalists has become a hot topic nowadays and many feel limited in pursuing newsworthy stories. I experienced censorship while at Waipahu and it felt like the administration silenced us. This censorship ranges from administration telling us to change a story because it sounded unflattering, to them proofreading the paper before it went to print.

At Ka Leo, I have more freedom to write newsworthy stories without censorship. Ka Leo is an independent organization and student-run. Students who are interested in pursuing a career in media or journalism should have these experiences and opportunities from an early age.

There is a difference between public relations and journalistic writing. The stories that I see in high school newspapers mimic what a magazine and a newsletter looks like. It shouldn't be that way. Student-journalists have as much as rights as normal journalists have.

I urge the committee to pass the bill.

Mahalo,  
Chavonnie

**HB-1529-HD-1**

Submitted on: 2/20/2020 9:54:49 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier<br/>Position</b> | <b>Present at<br/>Hearing</b> |
|---------------------|---------------------|-------------------------------|-------------------------------|
| Jennifer Howe       | Individual          | Support                       | No                            |

Comments:

**HB-1529-HD-1**

Submitted on: 2/20/2020 11:39:56 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| k            | Individual   | Support            | No                 |

## Comments:

As a student journalist and sports editor, I highly suggest that this bill is certified by the government. I say this because taking journalism helped me find my passion and lead me to wanting to apply for a journalism minor, in college. This bill needs to pass because the key aspect of being the watch dog for the community, would be banned if we are limited to what we say. It also supports the 10 ammendments, that we learn about in US History. This needs to be passed for the future, writers need to be the newscasters.

Thank you and I hope that you know the power of journalism.

**LATE**

**HB-1529-HD-1**

Submitted on: 2/20/2020 4:45:23 PM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By  | Organization | Testifier Position | Present at Hearing |
|---------------|--------------|--------------------|--------------------|
| Aisha Heredia | Individual   | Support            | No                 |

Comments:

Aloha,

I am in **strong support of HB1529 HD1** as it protects student journalists from being censored for their stories published in student media at their schools. Freedom of speech is one of our Bill of Rights, and should be protected in our Hawaii Public Schools. I feel this bill will help student journalists create honest stories, that have the potential to change injustices at their school or communities. If we do not protect our students, how can they feel open to share or publish stories that can be a catalyst for change? And how can our students learn what it is like to be a journalist without freedom of speech? **I support HB1529 HD1** because it will enhance the learning opportunities of our student journalists.

Mahalo,

Aisha Heredia  
Former STEM Teacher

**LATE**

**HB-1529-HD-1**

Submitted on: 2/21/2020 11:03:55 AM

Testimony for FIN on 2/21/2020 11:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Sandy Matsui | Individual   | Support            | No                 |

Comments:

Dear Members of the Finance Committee:

I am testifying in support of HB1529 HD1, a bill to protect the First Amendment rights of Hawaii's student journalists. My name is Sandra Matsui and I am testifying in my capacity as a faculty advisor for UH Student Media (including the Ka Leo News organization) at the University of Hawai'i, Mānoa. Having served in this capacity for over a decade, I have observed the impact this has had on many of our students. Their concern regarding possible consequences that may result from reporting facts that may appear to be unfavorable to administration has restricted their practice of fair and impartial reporting. Under current federal law, school administrators may and unfortunately do tread on the civil rights of student journalists through censorship. The frequency at which this happens is reflected by thousands of requests from student journalists for legal assistance received by The Student Press Law Center, an independent, non-partisan 501c(3) which works to promote, support and defend the First Amendment and press freedom rights of high school and college journalists and their advisers. Censorship sends the message that student voices don't matter, which is not the message the people of Hawai'i want to perpetuate among our youth.

HB1529 HD1 protects the rights and clarifies the responsibilities of individuals involved in journalism including students, advisers, and administrators in public schools and colleges. This bill is in direct support of Superintendent Kishimoto's High Impact Strategy of valuing student voice. I respectfully request that you support this legislation and accept this bill in its current form to ensure the student voice is heard and does matter.

Thank you for your consideration and support.