



STATE OF HAWAII
Executive Office on Early Learning
2759 South King Street, Room C6
HONOLULU, HAWAII 96826

March 18, 2024

TO: Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Yuuko Arikawa-Cross, Director
Executive Office on Early Learning

SUBJECT: Measure: S.B. No. 2475 S.D. 2 H.D. 1 – RELATING TO EDUCATION
Hearing Date: Wednesday, March 20, 2024
Time: 2:00 pm
Location: Conference Room 325

EXECUTIVE OFFICE ON EARLY LEARNING'S POSITION: Support

Protecting children against harm is paramount for the Executive Office on Early Learning (EOEL) and we support S.B. No. 2475 S.D. 2 H.D. 1 and defer to the Department of Education (HIDOE) on the provisions of the bill related to implementation.

EOEL is committed to providing high-quality early learning programs and services to all keiki across the State. Fundamental components of a high-quality program include safe and nurturing environments and trusting and caring adults. This bill would streamline information about individuals who have perpetuated harm against children, making that information more accessible across schools and potentially departments.

Mahalo for the opportunity to testify in support of this measure.

JOSH GREEN, M.D.
GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

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

Date: 03/20/2024

Time: 02:00 PM

Location: 325 VIA VIDEOCONFERENCE

Committee: House Judiciary & Hawaiian Affairs

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB 2475, SD2, HD1 RELATING TO EDUCATION.

Purpose of Bill: Establishes a harm to students registry for all early learning programs or schools and K-12 educational institutions within the State that contains information on school employees, contractors, or volunteers for whom, as result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Appropriates funds. Effective 7/1/3000. (HD1)

Department's Position:

Thank you for the opportunity to provide written testimony on SB 2475 SD 2 HD 1. The Hawaii State Department of Education supports the amendments made in the HD1, as it provides greater protections of an individual's due process rights and better ensures a more efficient process for the employee.

The Department agrees with the legislature that creating a harm to students registry that is accessible by any educational institution serving any combination of students from grades pre K-12 within the State of Hawaii will help prevent the employment of individuals who harm children.

Increasing the ability of both private and public pre K-12 educational institutions to communicate and provide vital information to consider in rendering employment decisions is critically important to maintaining healthy and safe learning environments for all of Hawaii's keiki.

Thank you for the opportunity to provide written testimony on SB 2475 SD 2 HD 1.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2475, S.D. 2, H.D. 1, RELATING TO EDUCATION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Wednesday, March 20, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Anne T. Horiuchi, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill establishes a "Harm to Students Registry" (Registry) for all early learning programs or schools and K-12 educational institutions within the State, to be administered by the Department of Education (DOE). The Registry will contain information on school employees, contractors, or volunteers for whom, as a result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. It requires DOE schools (section 302A-), private schools (section 302C-), public charter schools (section 302D-), and early learning programs or schools (section 302L-), to contribute information to the Registry and to consult the Registry before considering a candidate for employment or authorizing a volunteer's assistance in a role that involves interaction with students. The bill also creates an unspecified number of positions within the DOE to manage the Registry, and appropriates funds.

The Department suggests that in addition to the appeal process that is afforded to a person by the institutions that contribute names to the Registry, a means be added for removing names from the Registry based upon new information that was not available at the time the name was added to the Registry. For example, a new subsection could be added to each of the new sections added to chapters 302A, 302C, 302D, and 302L, Hawaii Revised Statutes, that provides: "An individual whose name is

on the registry may request the appropriate educational institution to remove the individual's name from the registry if new information is discovered that establishes that the individual has not inflicted harm on a student such that the individual's name does not belong on the registry. The department shall remove the individual's name upon receiving a certified request from the educational institution to remove the individual's name from the registry."

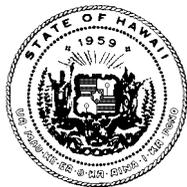
The Department further suggests that the indemnification provisions of the bill be amended. Specifically, we suggest the following revisions (changes in bold):

- Revise new section 302A-__(k) on page 6, line 19, through page 7, line 2, to state: "Any institution certifying the inclusion of an employee on **or removal of an employee from** the harm to students registry, **or refusing to certify the removal of an employee from the harm to students registry**, shall defend and indemnify the department from any liability resulting from any claim or cause of action relating to the employee's inclusion on **or removal from** the registry, **or relating to the institution's refusal to certify the removal of the employee from the registry.**"
- Revise new section 302C-__(j) on page 12, lines 1-5, to state: "A private school certifying the inclusion of an employee on **or removal of an employee from** the harm to students registry, **or refusing to certify the removal of an employee from the harm to students registry**, shall defend and indemnify the department from any liability resulting from any claim or cause of action relating to the employee's inclusion on **or removal from** the harm to students registry, **or relating to the private school's refusal to certify the removal of the employee from the registry.**"
- Revise new section 302D-__(j) on page 15, lines 17-21, to state: "Any public charter school certifying the inclusion of an employee on **or removal of an employee from** the harm to students registry, **or refusing to certify the removal of an employee from the harm to students registry**, shall defend and indemnify the department from any liability resulting from any claim or cause of action relating to the employee's inclusion on **or removal from** the

- registry, **or relating to the charter school's refusal to certify the removal of the employee from the registry.**"
- Revise new section 302L-__ (j) on page 19, lines 12-16, to state: "Any early learning program or school certifying the inclusion of an employee on **or removal of an employee from the harm to students registry, or refusing to certify the removal of an employee from the harm to students registry,** shall defend and indemnify the department from any liability resulting from any claim or cause of action relating to the employee's inclusion on **or removal from the registry, or relating to the early learning program or school's refusal to certify the removal of the employee from the registry.**"

Thank you for the opportunity to provide comments on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 19, 2024

TO: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **SB 2475 SD2 HD1 – RELATING TO EDUCATION.**

Hearing: March 20, 2024, 2:00 p.m.
Conference Room 325, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the measure, provides comments, and **requests an amendment** in Section 2 that authorizes the Department of Education to share information from the registry with DHS.

The Department defers to the Department of Education, the Hawaii Teachers Standards Board, the Department of the Attorney General, and the Department of Human Resources & Development.

DHS also notes that there is a typo in the Committee on Education's STAND. COM. REP. NO. 1101-24, as it refers to "inserting the contents of H.B. No. 2034, H.D. 3[.]" The correct bill number is HB 2043 HD3.

PURPOSE: This bill establishes a harm to students registry for all early learning programs or schools and K-12 educational institutions within the State that contains information on school employees, contractors, or volunteers for whom, as a result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Appropriates funds. Effective 7/1/3000. (HD1)

The Committees on Education and Labor and Technology (SD1) amended the measure by:

- (1) Deleting a reference to chapter 350, Hawaii Revised Statutes, relating to child abuse under the purview of the Department of Human Services;
- (2) Prohibiting the inclusion of personally identifiable information of a student within information shared between educational institutions regarding the Harm to Students Registry;
- (3) Exempting any information or employment documents related to the Harm to Students Registry obtained from a non-governmental educational institution from the requirements of the Uniform Information Practices Act;
- (4) Clarifying that the Department of Education is required to complete an investigation of an employee, rather than an individual;
- (5) Requiring institutions to complete an investigation upon notification of an allegation of infliction of harm to a student;
- (6) Requiring public schools to inquire with the Department of Education to confirm whether a candidate for employment or prospective volunteer at the institution is listed on the Harm to Students Registry;
- (7) Applying definitions of terms defined in section 302A-1002, Hawaii Revised Statutes, to new language establishing the Harm to Students Registry in other sections of the Hawaii Revised Statutes;
- (8) Inserting language in chapter 302L, Hawaii Revised Statutes, to extend the provisions of this measure to early learning programs;
- (9) Clarifying that inclusion on the Harm to Students Registry for certain persons paid under the salary scheduled contained in bargaining unit (5) shall occur only after an investigation conducted results in a final finding that the person engaged in acts or omissions that resulted in the infliction of harm to a student;
- (10) Requiring any individual who retires or resigns from teaching before the completion of the investigation to surrender their Hawaii teaching license;
- (11) Requiring the Hawaii Teacher Standards Board to report a surrendered license to the National Association of State Directors of Teacher Education and Certification; and
- (12) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The Committee on Ways and Means (SD2) made additional amendments:

- (1) Clarifying that certain information shall be exempt only from the disclosure requirements of the Uniform Information Practices Act (Chapter 92F, Hawaii Revised Statutes);
- (2) Providing that the third member of the Superintendent of Education's temporary commission shall be a representative of private schools located in the State, as

- invited by the superintendent; provided that the right of first refusal to serve on the commission shall go to the Executive Director of the Hawaii Association of Independent Schools or the Executive Director's designee;
- (3) Providing that the Department of Education may share information from the harm to students registry with the Department of Human Services;
 - (4) Deleting language relating to exemptions from criminal liability for good faith reporters;
 - (5) Deleting language that would have required that a person's resignation or retirement during an investigation automatically result in the revocation of the person's teaching license and placement of the person on the harm to student registry;
 - (6) Clarifying teacher license surrender provisions relating to any person who retires or resigns before the completion of an investigation; and
 - (7) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

The Committee on Education (HD1) amended the measure by deleting its contents and inserting the contents of HB 203443, HD 3, a measure that:

- (1) Creates a registry for all preschools and K-12 educational institutions within the State that contains information on school employees, contractors, or volunteers for whom, as a result of an investigation, a final finding has been issued that the individual has inflicted harm on a student;
- (2) Appropriates funds to establish an unspecified number of full-time equivalent positions within the Department of Education to manage the registry and carry out the requirements of this measure; and
- (3) Takes effect on July 1, 3000.

DHS appreciated the SD2 amendment authorizing that DOE may share information with DHS; however, the HD1 deleted the amendment. DHS respectfully requests the following statement be inserted as a subsection in Section 2, to be numbered appropriately, and to read:

"The department may share information from the registry with the department of human services."

As drafted, the definition of "institution" does not include DHS. However, DHS conducts risk and suitability assessments of individuals who may be in the human care workforce serving vulnerable children or adults or in child care settings, including private preschools. DHS Child Welfare Services Branch (CWS) and Adult Protection & Community Services Branch (APS) investigate reports of abuse and neglect of minors and vulnerable adults and review

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applications to become resource caregivers. CWS also provides information to the Family Court regarding the background of petitioners seeking the adoption of a minor.

The Child Care Licensing Program (CCL) conducts background and suitability reviews for individuals interested in becoming child care providers and investigates violations of child care licensing rules. Additionally, if injuries occur in a private regulated child care setting, CWS and CCL both conduct investigations of the reported injury.

Thank you for the opportunity to provide comments on this measure.



STATE OF HAWAII
HAWAII TEACHER STANDARDS BOARD
650 IWILEI ROAD, SUITE 268
HONOLULU, HAWAII 96817

WRITTEN TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

PERSON TESTIFYING: Felicia Villalobos, Executive Director, on behalf of the Hawai'i Teacher Standards Board

DATE: March 20, 2024

TIME: 2:00PM

LOCATION: Conference Room 325 and Video Conference

TITLE OF BILL: SB2475 SD2, HD1 RELATING TO EDUCATION, Department of Education; Private Schools; Charter Schools; Prekindergarten Programs and Schools; Harm to Students Registry; Appropriation; Expenditure Ceiling

PURPOSE OF BILL: Establishes a harm to students registry for all early learning programs or schools and K-12 educational institutions within the State that contains information on school employees, contractors, or volunteers for whom, as result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Appropriates funds.

POSITION: Support

Chair Tarnas, and Members of the Committee;

Hawai'i Teacher Standards Board ("HTSB") supports the efforts to create a Harm to Students Registry for all preschools and K-12 educational institutions within the State that contains information on school employees, contractors, or volunteers for whom, as a result of an investigation, a final finding has been issued that the individual has inflicted harm on a student, with the goal of preventing those individuals from subsequently gaining employment in any other public or private preschools and K-12 institutions in Hawaii.

Although this bill states "institutions" will be required to complete investigations, for clarity, we suggest that the definition contained in the bill be better defined as written below, by inserting the words "public or private".

"Institution" means any public or private educational institution that serves any combination of students from grades prekindergarten through grade twelve within the State.

The department (HIDOE) already has the ability to remove an individual from the classroom or school while an investigation is being completed, which serves as a safeguard towards further harm to students, and we think this process should be continued.

We support the measure so long as it does not adversely impact priorities identified in the Executive Supplemental Budget Request for FY2025. The Hawai'i Teacher Standards Board thanks you for hearing our testimony.



Kamehameha Schools®

House Committee on Judiciary & Hawaiian Affairs

Time: 2:00 p.m.

Date: March 20, 2024

Where: Conference Room 325

TESTIMONY

By Dr. Wai‘ale‘ale Sarsona
Kamehameha Schools

RE: SB 2475, SD2, HD1, Relating to Education

E ka Luna Ho‘omalua Tarnas, ka Hope Luna Ho‘omalua Takayama, a me nā lālā o kēia Kōmike o ka Hale o nā Lunamaka‘āinana, aloha kākou! My name is Dr. Wai‘ale‘ale Sarsona, Vice President of Hi‘ialo at Kamehameha Schools.

Kamehameha Schools **supports** SB 2475, SD2, HD1, which establishes a Harm to Students Registry for all prekindergarten through grade twelve institutions operating in the State to be administered by the Department of Education. We believe that student safety and well-being must always be at the center and this bill will help educational institutions have access to information about applicants who were found to cause harm to our keiki in their previous employment at an educational institution.

He lei pōina ‘ole ke keiki. A child is a lei that is never forgotten. We firmly believe that our keiki are indeed our most beautiful lei and deserve our full support and attention. We also know that we need to get this right and we are grateful for the opportunity to be involved in this process.

Founded in 1887, Kamehameha Schools is an educational organization striving to restore our people through education and advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.

‘A‘ohe hana nui ke alu ‘ia. No task is too great when we work together.



TO: The Honorable David Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Philip Bossert, Executive Director
Hawaii Association of Independent Schools

RE: **SB 2475 SD2 HD1 - Relating to Education
In Strong Support**

DATE: Wednesday, March 20, 2024
2:00 p.m.; Conference Room 325

Aloha Chair Tarnas, Vice Chair Takayama and members of the Committee:

The Hawaii Association of Independent Schools (HAIS) and its subsidiary, the Hawaii Council of Private Schools (HCPS), strongly supports SB 2475 SD2 HD1. The establishment of a Harm to Students Registry in Hawaii will close a significant loophole in the hiring of school personnel that allows employees who have harmed students – in particular sexually abusing students – and released from one institution to seek employment at a new school and cause harm once again. There are multiple cases of this happening in Hawaii in past years.

Unfortunately, it is often the case that an institution, in order to avoid tarnishing its reputation with a sexual abuse incident becoming public, will simply terminate the offending person and not report it to the police. Likewise, parents are often reluctant to put their children through the additional trauma of having to testify in public about a sexual abuse incident that they have been a victim of. Repeat offenders are thus able to move undetected from one school to another and continue to harm students.

This registry, similar to ones in Texas and New Jersey, would require schools that have released an employee for harming a student to report that employee and the incident to the registry. And it will require any public, charter or private school in the state to check this registry before offering employment to a new employee. If the applicant's name is found to be on the registry, then that person should not be allowed to work in a school.

The creation of this statewide registry for all PK-12 schools will help to prevent the repeated harm that such persons cause. I urge you to support this bill and help to close this loophole. I would be happy to provide further clarity should you need additional information.

Thank you for the opportunity to provide this testimony.



PUNAHOU SCHOOL

1601 Punahou Street, Honolulu, HI 96822-3336
Tel: 808.944.5700 mlatham@punahou.edu

Michael E. Latham, Ph.D.
President

To: The Honorable David Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

From: Michael E. Latham
Governance Committee Chair, Hawaii Association of Independent Schools
President, Punahou School

Re: **SB 2475 SD2 HD1 – Relating to Education
In Strong Support**

Date: Wednesday, March 20, 2024
2:00 PM, Conference Room 325

Aloha Chair Tarnas, Vice Chair Takayama and members of the Committee:

As a Board member and Chair of the Governance Committee of the Hawaii Association of Independent Schools, and as the President of Punahou School, I write in strong support of SB 2475 SD2 HD1. When parents enroll their sons and daughters at our state's public, charter, and independent schools, they are entrusting us with the safety of their children, and we must do all we can to earn that trust. This legislation will directly promote that vital work by creating a Harm to Students Registry empowering school officials to take affirmative steps to prevent perpetrators of sexual misconduct from moving from one school to another with impunity.

At the present, schools often dismiss employees for engaging in misconduct, but bad actors frequently are hired by other institutions where they may continue to prey on vulnerable students. To avoid defamation claims, schools may decline to share information with each other. In other instances, legal settlements may preclude the kind of warnings necessary to keep students safe. The Harm to Students Registry created by this bill will require schools to report the names of perpetrators to a central registry, provide schools with indemnification as they act in good faith, and require school hiring officers to consult the registry and decline to hire individuals named in it. It also ensures appropriate due process by requiring that schools conduct an investigation and creates a meaningful appeals process as well.

I firmly believe that a balanced, careful approach of this kind will help to protect our students. Perpetrators of misconduct are frequently serial actors, and this bill, like laws currently in effect in other states, will prevent them from further damaging young lives. I strongly encourage you to support this bill.

Thank you for the opportunity to testify in support of this measure.