



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

January 29, 2024

TO: Representative Justin H. Woodson, Chair
Representative Trish La Chica, Vice Chair
House Committee on Education

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

SUBJECT: Measure: H.B. No. 2043 – RELATING TO EDUCATION
Hearing Date: Tuesday, January 30, 2024
Time: 2:00 pm
Location: Conference Room 309

EXECUTIVE OFFICE ON EARLY LEARNING'S POSITION: Support Intent

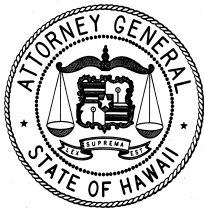
Protecting children against harm is paramount for the Executive Office on Early Learning (EOEL) and we support the intention of H.B. No. 2043 and offer comments.

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.

We respectfully request that the Director of EOEL be included in the temporary panel referenced in subsection f (page 5 lines 11 through 12) as EOEL also oversees prekindergarten classrooms.

Classroom and administrative staff of the EOEL Public Prekindergarten program are employees of the Department of Education (HIDOE) and we defer to HIDOE on the provisions of the bill related to implementation.

Mahalo for the opportunity to provide comments on this measure.



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

ON THE FOLLOWING MEASURE:
H.B. NO. 2043, RELATING TO EDUCATION.

BEFORE THE:
HOUSE COMMITTEE ON EDUCATION

DATE: Tuesday, January 30, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309 and Videoconference

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

Chair Woodson 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 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. The bill defines "inflicted harm on a student" to involve sexual conduct and allows for an appeal process to remove an individual's name from the Registry.

The Department notes that the registration of sex offenders required by chapter 846E, Hawaii Revised Statutes (HRS), applies to sex offenders who have been convicted of a sexual offense. While a criminal conviction requires proof beyond a reasonable doubt in a court of law, listing on the Registry would only require an investigation and findings made by an educational institution outside of a court of law. While the bill creates a process for a person to appeal to have that person's name removed from the Registry, that appeal process ends at an administrative tribunal and is not subject to a section 91-14 appeal to the court system. Further, there are circumstances where a person could be listed on the Registry, yet have been exonerated in a court of law.

The Department also notes the following:

- The Department suggests adding similar provisions to chapter 302L, HRS, regarding the Early Learning System. Section 1 of the bill provides that the bill is applicable to preschools, but the bill only adds references to the Registry to chapters 302A, 302C, and 302D, HRS, which apply to the Department of Education (DOE), private schools, and public charter schools, respectively.
- The Department suggests that clarifying language be added between "accused party" and "regarding," or after "initiation of the investigation". Subsection (c)(2) of the new section added to chapter 302A, HRS, by section 2 on page 4, lines, 9-13, regarding investigations, is confusing. The first part of the subsection states that an investigation shall involve an "opportunity for the complaining party and accused party to provide information to the investigator[.]" The next phrase of the subsection appears to omit wording, because it states: "if the complaining party and accused party regarding the alleged misconduct or other circumstances that caused initiation of the investigation."
- Subsection (d) of the same new section added by section 2 of the bill on page 5, lines 3-6, provides: "Any institution in the State shall share information relating to any ongoing or concluded investigation of infliction of harm to a student, including any final finding of the investigation, when requested by another institution." To avoid a potential violation of the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), the Department suggests adding the following to the end of subsection (d): "The information shared shall not include personally identifiable information of any student."
- The bill requires the DOE to maintain the Registry, with the intent to make the Registry accessible to other institutions in the state. Page 5, lines 3-8. Such records, however, would also normally be subject to the Uniform Information Practices Act, chapter 92F, HRS. Because the Registry impacts both private-school and public-school employees, there is a risk that highly sensitive

employment information of non-government employees could be released. To protect the State from liability, and based upon our concerns regarding the extrajudicial procedures surrounding the Registry, we recommend that the Registry and related employment documents obtained from non-government educational institutions be exempted from disclosure under the Uniform Information Practices Act.

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



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

Date: 01/30/2024
Time: 02:00 PM
Location: 309 VIA VIDEOCONFERENCE
Committee: House Education

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB 2043 RELATING TO EDUCATION.

Purpose of Bill: Establishes a harm to students registry for all preschools and K-12 educational institutions within the State that contains information on school employee, contractor, or volunteers for whom, as result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Defines "inflicted harm on a student". Allows for an appeal process to remove an individual's name from the registry.

Department's Position:

Thank you for the opportunity to provide testimony on HB 2043 "Relating to Education." The Hawaii State Department of Education (Department) supports this measure.

The Department agrees with the legislature that creating a harm to students' registry that is accessible by all preK-12 educational institutions within the State of Hawaii will aid in preventing the employment of individuals who harm children.

Increasing the ability of both private and public preK-12 education 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.

The Department respectfully submits the following recommendations and comments:

Section 2, page 4, lines 9-13, §302A- (c)(2) – delete “, if the complaining party and

accused party”;

Section 2, page 4, lines 14-15, §302A- (c)(3) – include clarification that this provision applies to an accused party of a bargaining unit and is not intended to require the Department to provide representation for an accused party that does not belong to a bargaining unit and thus does not have representation pursuant to a collective bargaining agreement.

Additionally, to effectively carry out the mandates of this measure, the Department requests funding and a 1.0 FTE position.

Thank you for the opportunity to testify on HB 2043.

JOSH GREEN, M.D.
GOVERNOR



CATHY K. IKEDA
CHAIRPERSON

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

<http://CharterCommission.Hawaii.Gov>
1164 Bishop Street, Suite 1100, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB 2043 Relating to Education
DATE: January 30, 2024
TIME: 2:00 P.M.
COMMITTEE: Committee on Education
ROOM: Conference Room 309 & Videoconference
FROM: PJ Foehr, Interim Executive Director
State Public Charter School Commission

Chair Woodson, Vice Chair La Chica, and members of the Committee:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to offer **SUPPORT on HB 2043** which creates a registry of all preschools and K-12 educational institutions within the State that contains information on school employee, contractor, or volunteers for whom, as 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 institution in Hawaii..

The Commission supports the efforts of the Legislature in providing this registry which would serve as an additional safety measure that would protect all public school students, including charter school and preschool students. The Commission is available to work with this committee, the DOE, and our public charter schools in moving this legislation forward.

Thank you for the opportunity to provide this testimony.

JOSH GREEN, M. D.
GOVERNOR
KE KIA'ĀINA

SYLVIA LUKE
LT. GOVERNOR
KA HOPE KIA'ĀINA



BRENNA H. HASHIMOTO
DIRECTOR
KA LUNA HO'OKELE

RYAN YAMANE
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
KA 'OIHANA HO'OMŌHALA LIMAHANA
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

Statement of
BRENNA H. HASHIMOTO
Director, Department of Human Resources Development

Before the
HOUSE COMMITTEE ON EDUCATION
Tuesday, January 30, 2024
2:00PM
State Capitol, Conference Room 309

In consideration of
HB2043, RELATING TO EDUCATION

Chair Woodson, Vice Chair La Chica, and the members of the committee.

The Department of Human Resources Development (DHRD) offers the following **comments** for HB 2043.

The purpose of this bill is to establish a harm to students registry for all preschools and K- 12 educational institutions within the State that contains information of 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. Defines "inflicted harm on a student". Allows for an appeal process to remove an individual's name from the registry.

DHRD supports the intent of this measure and offers the following comments:

1. DHRD is the State's central human resources agency responsible for conducting suitability investigations into individuals offered civil service appointments, some of which may involve working directly with children. As such, it is requested that DHRD be included as an employer authorized to access the registry. The information contained in the registry will provide DHRD with essential information during suitability investigations.

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



TO: The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

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

**RE: HB 2043 - Relating to Education
In Strong Support with clarifying amendment**

DATE: Tuesday, January 30, 2024
2:00 p.m.; Conference Room 309

Aloha Chair Woodson, Vice Chair La Chica and Members of the Committee:

The Hawaii Association of Independent Schools (HAIS) and its subsidiary, the Hawaii Council of Private Schools (HCPS), strongly supports HB 2043. 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. We only respectfully request one clarifying amendment to add language that would make clear that the public schools shall also not hire or engage with any individuals whose names are in the registry.

Thank you for the opportunity to provide this testimony. I would be happy to answer any questions you might have on this issue.

HB-2043

Submitted on: 1/28/2024 9:51:48 PM

Testimony for EDN on 1/30/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael EKM Olderr	Individual	Support	Written Testimony Only

Comments:

As someone who once had a teacher who deserved to be on a list like this, who left to teach at a different school right before they were to face the consequences, I support this bill. We must be vigilant to protect our keiki from those who abuse their powers and the community's trust.

HB-2043

Submitted on: 1/28/2024 10:16:56 PM

Testimony for EDN on 1/30/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Representatives,

On behalf of Hawaii Young Republicans, we support this bill. Ensuring our schools are a safe space for students of all ages is crucial and it is a glaring oversight such a registry was not put in place prior. Protecting young children fro predatory state employees is of the utmost importance. We strongly urge the committee to support this legislation.



January 29, 2024

The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

Re: **HB 2043 – Relating to Education
In Strong Support with clarifying amendment**

Date: Tuesday, January 30, 2024
2:00pm, Conference Room 309

Aloha Chair Woodson, Vice Chair La Chica, and Members of the Committee:

I am writing in strong support of HB 2043 – Relating to Education.

While I have served on the governing boards of several schools, including Punahou School and KCAA Preschools of Hawaii currently and The University of Hawaii System and Pomona College in the past, I am supporting this legislation in my individual capacity.

During my experience with schools, I have learned much about the problem of sexual predators and have thought a great deal about how to stop them. Over the years and across the nation, we have seen regular instances of sexual predators preying on children in schools, religious institutions, youth organizations and athletic teams.

While we all want to stop these heinous acts, the current law does not adequately protect our children in one key respect. In some cases, predators are caught and there is sufficient evidence for criminal prosecution. In other cases, however, the evidence may not meet the criminal standard of “beyond a reasonable doubt” even though the allegations are more likely true than not. Alternatively, some organizations fear reputational damage and choose to secretly settle the allegations under confidentiality agreements. (I should mention that Punahou has not taken this approach, and decided instead to be transparent and proactive about this issue, believing that taking away the secrecy and implied shame is the best way to prevent it.)

PAGE TWO

The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair

In the above cases where the allegations do not result in criminal prosecution, the end result is that the alleged offender is terminated by the employer but is not stopped from seeking employment at other organizations serving youth. In addition, the risk of being sued for defamation often deters that employer from warning other organizations about the alleged offender. Finally, the research on sexual predators suggests that a substantial majority of abuse is committed by serial offenders. Sadly, if not stopped, serial offenders will continue to hurt children at successive organizations.

This bill would provide a way for schools that have duly investigated an allegation of sexual abuse and concluded that termination of an individual is justified (including after considering any appeals from that individual), to provide notice to other potential employers through the registry. The bill would also prohibit other private organizations from hiring that individual. I strongly encourage you to support this bill, and respectfully request one clarifying amendment to add language making clear that public schools shall also not hire or engage with any person named on the registry.

By preventing the rehiring of such individuals and depriving them of easy opportunities to commit more abuse, we can keep more children safe.

Very truly yours,



Mark Fukunaga

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PUNAHOU SCHOOL

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Tel: 808.944.5700 mlatham@punahou.edu

Michael E. Latham, Ph.D.
President

To: The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

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

Re: **HB 2043 – Relating to Education**
In Strong Support with clarifying amendment

Date: Tuesday, January 30, 2024
2:00pm, Conference Room 309

Aloha Chair Woodson, Vice Chair La Chica, 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 HB 2043. 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, and respectfully request one clarifying amendment to add language making clear that public schools shall also not hire or engage with any person named on the registry.

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

LATE



Kamehameha Schools®

House Committee on Education

Time: 2:00 p.m.

Date: January 30, 2024

Where: Conference Room 309

TESTIMONY

By Dr. Wai‘ale‘ale Sarsona
Kamehameha Schools

RE: HB 2043, Relating to Education

E ka Luna Ho‘omalū Woodson, ka Hope Luna Ho‘omalū La Chica, a me nā lālā o kēia Kōmike Ho‘ona‘auao 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** HB 2043, which establishes a harm to student’s registry for all preschools and K-12 educational institutions. We believe that student safety and well-being must always be at the center and this bill will help to reduce employees who are found to cause harm to our keiki at one institution are not inadvertently hired by another 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. Hānai i ke keiki; ola ka lāhui.

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

HB-2043

Submitted on: 1/30/2024 7:12:32 AM
Testimony for EDN on 1/30/2024 2:00:00 PM

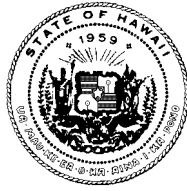


Submitted By	Organization	Testifier Position	Testify
Angela Melody Young	CARES	Support	In Person

Comments:

CARES testifies in strong support.

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

January 30, 2024

To: The Honorable Representative Justin H. Woodson, Chair
House Committee on Education

FROM: Cathy Betts, Director

SUBJECT: [HB 2043](#) – RELATING TO EDUCATION.

Hearing: January 30, 2024, 2:00 p.m.
Conference Room 309, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure, provides comments, and requests amendments. DHS defers to the Department of Education, the Hawaii Teachers Standards Board, and the Department of Human Resources & Development.

PURPOSE: This bill establishes a harm to students registry for all preschools and K-12 educational institutions within the State that contains information on school employee, contractor, or volunteers for whom, as result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Defines "inflicted harm on a student". Allows for an appeal process to remove an individual's name from the registry.

DHS comments that the proposed definition of "Inflicted harm on a student" does not refer to section 350-1, Hawaii Revised Statutes, which identifies a broader range of child abuse and neglect.

DHS requests amendments to allow DHS access to the harm to the student registry, final findings, and the investigation. 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 applications to become resource caregivers. 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. CWS also provides information to the Family Court regarding the background of petitioners seeking the adoption of a minor. Additionally, if injuries occur in a private regulated child care setting, CWS and CCL both conduct investigations of the reported injury.

To enhance DHS risk and suitability assessments included in these investigations, DHS requests an amendment authorizing DHS access to the harm to student registry, the final findings, and the investigation.

DHS will need time to work with DOE to develop and implement a data-sharing agreement.

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