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## HOUSE CONCURRENT RESOLUTION

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SUPPORTING FREE AND RESPONSIBLE SCHOLASTIC JOURNALISM AND  
ACTIVELY SUPPORTING AND HONORING THE FIRST AMENDMENT OF THE  
UNITED STATES CONSTITUTION IN STUDENT PUBLICATIONS.

1 WHEREAS, the Department of Education distributes to every  
2 student a Student Publication/Audio/Video Release Form "in order  
3 to protect students' rights to privacy as outlined in the Family  
4 Educational Rights and Privacy Act (FERPA) and the Protection of  
5 Pupil Rights Amendment (PPRA)," and

6  
7 WHEREAS, the Student Publication/Audio/Video Release Form  
8 must be returned with a parent's signature so that, as stated on  
9 the Form, "the student's names and/or likenesses, photo, video,  
10 and/or audio may be used in HIDOE school-related publication  
11 print and analog/digital media"; and

12  
13 WHEREAS, the Student Publication/Audio/Video Release Form  
14 lists "name and picture in annual yearbook" as an example of a  
15 Department of Education or school-related publication covered by  
16 FERPA; and

17  
18 WHEREAS, in a survey of high school student media advisers,  
19 all indicated they believe their administrator believes a signed  
20 Student Publication/Audio/Video Release form is required in  
21 order to use a student's name and/or photo in school-sponsored  
22 student-produced media, such as yearbooks, newspapers,  
23 broadcasts, and literary magazines; and

24  
25 WHEREAS, the Hawaii Student Journalism Protection Act,  
26 enacted under Act 24, Session Laws of Hawaii 2022, and Board of  
27 Education Policy 101-9 allows student journalists at public  
28 schools to exercise freedom of speech and freedom of the press  
29 in school-sponsored media, and protects advisers from



retaliation for refusing to infringe upon student press freedom;  
and

WHEREAS, the Hawaii Student Journalism Protection Act and Board of Education Policy 101-9 state that a student journalist shall be responsible for determining the news, opinion, feature, and advertising content of school-sponsored media; and

WHEREAS, the Hawaii Student Journalism Protection Act and Board of Education Policy 101-9 define "student media" as material:

- (1) Prepared, written, published, or broadcast in any media by a student journalist at a school;
- (2) Distributed or generally made available, either free of charge or for a fee, to members of the student body; and
- (3) Prepared under the direction of a student media advisor, regardless of whether the material is supported financially by the school or by use of facilities of the school or produced in conjunction with a class for which the student is enrolled; and

WHEREAS, the Hawaii Student Journalism Protection Act and Board of Education Policy 101-9 state that there shall be no prior constraint of material prepared for school-sponsored media except if the material is:

- (1) Is libelous or slanderous;
- (2) Constitutes a clearly unwarranted invasion of personal;
- (3) Violates state or federal law;
- (4) Is obscene; or
- (5) So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of lawful school or board policies, or the



1 material and substantial disruption of the orderly  
2 operation of the school; provided that the  
3 determination of a risk of material and substantial  
4 disruption shall be based upon specific facts,  
5 including past experience at the school and current  
6 events influencing student behavior, and not on  
7 undifferentiated fear or apprehension; and  
8

9 WHEREAS, FERPA only restricts the release of information by  
10 school officials; outside parties, including student  
11 journalists, who are neither employees nor agents of the school,  
12 are not covered by FERPA; and  
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14 WHEREAS, minors can give consent as long as they are  
15 cognitively able to understand what it means to talk to a  
16 journalist; and  
17

18 WHEREAS, student journalists follow the Society of  
19 Professional Journalists Code of Ethics to:  
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- 21 (1) Seek truth and report it;  
22  
23 (2) Minimize harm;  
24  
25 (3) Act independently; and  
26  
27 (4) Be accountable and transparent; and  
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29 WHEREAS, applying FERPA to student media is unnecessarily  
30 placing prior constraint on student journalists; now, therefore,  
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32 BE IT RESOLVED by the House of Representatives of the  
33 Thirty-third Legislature of the State of Hawaii, Regular Session  
34 of 2025, the Senate concurring, that this body supports free and  
35 responsible scholastic journalism and actively supports and  
36 honors the First Amendment of the United States Constitution in  
37 student publications; and  
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39 BE IT FURTHER RESOLVED that the Department of Education is  
40 requested to:  
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- 1 (1) Inform administrators that parent consent is not a  
2 legal requirement for publishing student names and  
3 photos in school-sponsored student-produced media;  
4 provided that the information is:  
5  
6 (A) Posted in a medium conspicuous to administrators  
7 and advisers of school-sponsored student-produced  
8 media; and  
9  
10 (B) Located across any media storage or document  
11 storage maintained by the Department of Education  
12 wherever the Student Publication/Audio/Video  
13 Release Form-General currently exists as a  
14 supplemental or advisory document;  
15  
16 (2) Revise the current Student Publication/Audio/Video  
17 Release Form-General to remove any language that would  
18 lead a reasonable person to assume the Form applies to  
19 school-sponsored student-produced media; and  
20  
21 (3) Update the Department of Education website related to  
22 student privacy to align with the revised Student  
23 Publication/Audio/Video Release Form; and  
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25 BE IT FURTHER RESOLVED that certified copies of this  
26 Concurrent Resolution be transmitted to the Chair of the Board  
27 of Education and Superintendent of Education.  
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OFFERED BY: \_\_\_\_\_

*Amy Penuso*

MAR 07 2025

