

Honolulu, Hawaii

February 12, 2016

RE: H.B. No. 2772  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Higher Education, to which was referred  
H.B. No. 2772 entitled:

"A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,"

begs leave to report as follows:

The purpose of this measure is to promote a safe environment  
free from sexual harassment, sexual assault, domestic violence,  
dating violence, and stalking at the University of Hawaii by  
requiring the University to, among other things:

- (1) Train all employees and students on sexual harassment,  
sexual assault, domestic violence, dating violence, and  
stalking laws and policies;
- (2) Designate a confidential advocate for students at each  
of its campuses;
- (3) Report all sexual-assault cases to the county police  
department for investigation;
- (4) Prohibiting romantic relationships between a student or  
graduate assistant and faculty or staff; and
- (5) Conduct a campus climate survey of all students every  
two years, beginning no later than December 31, 2016.

The YWCA Oahu, Hawaii State Democratic Women's Caucus, and  
Planned Parenthood Votes - Northwest and Hawaii supported this

HB2772 HD1 HSCR HED HMS 2016-1807



measure. The Hawaii State Commission on the Status of Women supported the intent of the measure. The Sex Abuse Treatment Center and a concerned individual submitted comments. The University of Hawaii opposed the measure.

Your Committee strongly supports the recommendations made by the Affirmative Consent Task Force in its 2015 report to the Legislature. The purpose of this measure is to implement the recommendations of the task force.

Your Committee notes concerns about the prohibition of "romantic relationships" between faculty and students. For example, the spouse of a faculty member may decide to return to school and, as a student, could potentially violate this provision. The measure also does not currently contain a definition of "romantic relationships".

When individuals involved in a consensual romantic or sexual relationship are in positions of unequal power at the University, it creates the potential for conflicts of interest, favoritism, and exploitation. Your Committee notes that many, if not most, universities across the nation have adopted policies to address these potential situations. If your Committee on Judiciary chooses to hear this measure, it may wish to consider the following:

- (1) University of California policy prohibits professors from entering into a romantic or sexual relationship with a student for whom they have or should reasonably expect to have in the future, any teaching, evaluative, or supervisory responsibility;
- (2) Northwestern University Policy Number 011314 on Consensual Romantic or Sexual Relationships Between Faculty, Staff and Students defines "consensual romantic or sexual relationships" as relationships of a romantic, dating, or sexual nature entered into with the consent of both parties; and
- (3) Yale University prohibits a sexual or amorous relationship between any teacher and any student whom the teacher directly supervises and between any teacher and any undergraduate student, even if the teacher does not anticipate that he or she will directly supervise the undergraduate student.

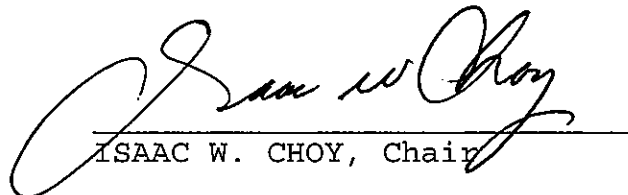


Your Committee has amended this measure by:

- (1) Requiring the University of Hawaii to inform victims in writing of the right to file a police report with the appropriate county police department for investigation and assist victims in submitting the police report, rather than requiring the University itself to report all sexual assault cases to the county police department for investigation;
- (2) Clarifying that any faculty member designated as a confidential advocate cannot be a "responsible employee" under Public Law 92-318, Title IX of the Federal Education Amendments of 1972, as amended;
- (3) Requiring the confidential advocate to provide general statistics to the Title IX Coordinator on an annual basis about the number and type of incidents received by the confidential advocate;
- (4) Changing its effective date to July 1, 2525, to facilitate further discussion; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2772, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2772, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Higher Education,

  
ISAAC W. CHOY, Chair



