



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committees on
Judiciary and Labor, and
Ways and Means
Monday, April 4, 2016 at 9:15 a.m.
By
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 2772 HD1 SD1 – RELATING TO THE UNIVERSITY OF HAWAII

Chairs Keith-Agaran and Tokuda, Vice Chairs Shimabukuro and Dela Cruz, and Members of the Senate Committees:

Thank you for the opportunity to present testimony on HB 2772 HD1 SD1 – Relating to the University of Hawaii. The University of Hawai'i ("University") appreciates the intent of the measure in addressing critical issues relating to sex discrimination and gender violence at the University. However, the University is already engaged in implementing many of the initiatives set forth in HB 2772 HD1 SD1. Furthermore, the issues raised in this draft have significant impact on the University student body and employee base. As such, we believe these matters are more appropriately developed and vetted through the University community to ensure alignment with the campus culture, and not prescribed through statutory mandate. For these reasons, we believe this measure is unnecessary.

HB 2772 HD1 SD1 statutorily mandates specific requirements, timelines and penalties associated with Title IX, VAWA and sexual harassment training. The University, through the Office of Institutional Equity, is in the process of planning, developing, coordinating, and implementing curricula for Title IX & VAWA training for all employees at each of the 10 campuses, beginning with the UH Community Colleges.

A large scale training covering a myriad of Title IX and VAWA topics was facilitated by OIE for all ten campuses from October 26-30, 2015. This training included Title IX Coordinator Certification and Civil Rights Investigator Certification from Daniel Swinton, Managing Partner of the National Center for Higher Education Risk Management (NCHERM) Group, LLC, and Associate Executive Director of the Association of Title IX Administrators (ATIXA). This training also included training on domestic and dating violence issues. Mindful that many initiatives require a top-down approach, this five day training was attended by over one hundred employees, including key executives from the campuses. Similar all campus trainings are scheduled in May and August 2016, to supplement the initial certifications with more advanced curricula, as well as address other issue areas. These planned trainings will also include national experts from NCHERM/ATIXA. Following the all-campus, week-long training held in October 2015,

individual campuses have been receiving additional live trainings. To date, seven campuses have been trained or have confirmed dates for training. The training curricula has been thoughtfully developed by OIE in consultation with the Title IX teams and vetted and mandated by the Chancellors of each of the respective campuses. Executives, staff, and faculty are required to attend these sessions and the targeted completion of this training initiative is May 31, 2016. To supplement live trainings, the University is also in the process of securing a vendor in anticipation of current online training contracts expiring at the end of May 2016. Online trainings will account for different learning modalities, as well as the differing demographics on each of the campuses.

Unlike existing practice at the University, HB 2772 HD1 SD1 adds a punitive element that will prohibit any student who does not complete training from registering for classes or graduating. This is a significant change from current procedure and, therefore, will require a more thoughtful development and implementation plan. Furthermore, the University is not in a position to immediately enforce this metric. Resources will be needed to upgrade the student information system to track and place holds in the system for students who do not meet the training requirements because this functionality does not currently exist.

With regard to HB 2772 HD1 SD1's definition of Responsible Employee, "Responsible Employee" is a legal status set forth in Title IX guidance that should be determined after thoughtful consideration of all the issues and ramifications. Generally speaking, the University supports designating faculty as "Responsible Employees" because faculty members are often trusted by their students, and students could perceive any faculty member as having the authority to help with the University's response.

HB 2772 HD1 SD1's mandate for confidential advocates should only be adopted after thoughtful consideration. Confidential advocates are one of the many possible confidential resources, serving a valuable role in ensuring victims are able to consider their rights and resources without feeling obligated to place the University on notice of a specific allegation, thereby supporting victim autonomy. To that end, the University supports the designation of confidential advocates on each campus. However, such designation must be done carefully and with appropriate resource considerations. The University is mindful that quickly designating additional resources without strategically planning to address, among other issues, the quality of the direct services delivered is not in the best interest of students. Any designation should be accompanied by a comprehensive resource mapping to ensure the newly designated resource is able to fully articulate their role in the University system. Further, the confidential advocates should have nuanced and comprehensive training to ensure they are able to support victims in a trauma informed manner, and are fully equipped to discuss the many resources available both on and off campus. Accordingly, the University is concerned that a requirement to designate more confidential advocates without providing for comprehensive training would be difficult for the University to implement absent additional appropriations.

With regard to HB 2772 HD1 SD1's mandate of MOUs with community organizations, the University appreciates the community organizations specialized in this area, and is in the process of establishing MOUs with various organizations to assist with efficient cross referrals between community organizations and the University. However, such arrangements must be incorporated strategically into a larger program. For example, it may be more appropriate for University confidential advocacy services to be provided by existing community organizations that already specialized in the areas of victim support and trauma counseling. To this end, the University has been establishing strategic relationships with key community stakeholders, thereby making the need to mandate such relationships in this measure unnecessary.

Additionally, the Affirmative Consent Task Force is also addressing and deliberating on the best implementation strategy for advocacy positions on campus. To ensure resources are efficiently allocated, the University respectfully requests that this active dialogue be allowed to complete its full course. The University, in collaboration with community experts, is in the best position to determine its needs regarding confidential resources as a whole.

HB 2772 HD1 SD1 requires the University to start conducting a campus climate survey by December 2016. The University recognizes that campus climate surveys are useful for collecting meaningful data. Surveys are also useful for increasing dialogue on campuses and helping to increase the comfort levels of victims of sex assault and other forms of sex discrimination and gender based violence in reporting issues to the University and local law enforcement.¹ The University completed "Sexual/Relationship Violence" surveys in 2003 and 2010² and has been planning a multi-phase system wide student campus climate survey to be administered no later than December 2016. Accordingly, the University believes this measure is unnecessary.

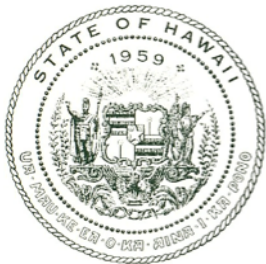
The application of amnesty policies have significant and wide-ranging effects that are not limited to Title IX reporting. While it is important to consider alcohol's role in the perpetration of sexual violence, it is essential that illegal substances and other amnesty concerns be addressed together. This will ensure that the information is presented in a holistic and easily understood manner. Accordingly, the University believes this issue is better addressed through the University's internal procedures and not mandated through this bill.

In conclusion, the University has been engaged in the activities described in HB 2772 HD1 SD1. Through strengthened community partnerships and the University's continued participation in the legislatively created Act 222 Task Force, considerable progress has been made. Accordingly, the University respectfully submits that it does not believe this bill is necessary at this time, and that the Act 222 Task Force is the appropriate vehicle for vetting these measures, along with other planned University initiatives.

¹ See <https://www.notalone.gov/assets/ovw-climate-survey.pdf>.

² See UH Commission on the Status of Women website: <http://www.hawaii.edu/offices/op/csw/violence.html>.

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WOMEN



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Executive Director
Catherine Betts, JD

Email:
Catherine.a.betts@hawaii.gov
Visit us at:
humanservices.hawaii.gov
/hscsw/

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

April 3, 2016

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Members of the Senate Committee on Ways and Means

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony Supporting Intent Re: HB 2772, HD1, SD1, Relating to the University of Hawaii, With Comments

The Commission appreciates the language set forth in HB 2772 and the legislative work undertaken to support victims of violence on college campuses. Since Act 222 was signed into law by Governor Ige, the Commission has actively taken a role on the Affirmative Consent Task Force by working with University representatives, community advocates, and victim service providers to develop preliminary recommendations regarding campus sexual violence, sexual harassment, dating violence, and stalking, while also highlighting the mandates found in Title IX, the Violence Against Women Act (VAWA), the Clery Act, and various other intersecting federal and state laws. Historically, these community groups and service providers have rarely been asked to collaborate with the University on these issues or policies. Through the work of the Task Force, we have been able to develop comprehensive recommendations for the University to implement. These recommendations are ongoing and require intensive fact finding and evidence gathering, and they are based on best practices from other institutions across the country who have similarly undertaken this work to create a safe educational climate.

The Commission strongly supports the language in HB 2772, HD1, SD1. However, given that our Task Force has an additional year to research, develop, and compile its final recommendations to the Hawaii State Legislature, we respectfully request additional time in order to fulfill the mandates of Act 222, which are specific, victim centered, and crafted within a framework of a “culture shift” on all University of Hawaii campuses across the state.

The Commission can and will continue to work with the Task Force to develop language which will prohibit relationships between faculty and students, *especially* in situations where a power imbalance or supervisory relationship exists. The Commission is committed to working with the Task Force to develop language and policy based on national best practices that are based on a victim centered approach while also respecting the due process rights of all parties involved. We ask that our Task Force be given more time to continue its work under the legal mandates of Act 222, recognizing that it is comprised of vigilant advocates who also desire an educational environment free of violence and discrimination and who wish to expedite changes across the University system.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, April 01, 2016 4:40 PM
To: JDLTestimony
Cc:
Subject: *Submitted testimony for HB2772 on Apr 4, 2016 09:15AM*

HB2772

Submitted on: 4/1/2016

Testimony for JDL/WAM on Apr 4, 2016 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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To: JDLTestimony
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Subject: *Submitted testimony for HB2772 on Apr 4, 2016 09:15AM*

HB2772

Submitted on: 4/1/2016

Testimony for JDL/WAM on Apr 4, 2016 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Gandiza	Individual	Support	No

Comments:

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