

LATE

THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

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DATE: March 22, 2016

TO: The Honorable Brian Taniguchi, Chair
Senate Committee on Higher Education and the Arts

FROM: The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Comments Regarding H.B. 2772 H.D. 1
Relating to the University of Hawaii

Good afternoon Chair Taniguchi and members of the Senate Committee on Higher Education and the Arts.

The Sex Abuse Treatment Center (SATC) submits the following comments regarding H.B. 2772 H.D. 1, which would require the University of Hawai'i (UH) to train employees and students on sexual harassment policies, appoint a campus advocate at each campus for students to discuss incidents of sexual harassment, report sexual assault cases to the police, and conduct a campus climate survey, while further prohibiting romantic relationships between UH students and faculty members.

SATC serves as a member of the UH Affirmative Consent Taskforce which was created under Act 222 (2015) in order to review and provide recommendations concerning UH's executive policy on sexual harassment, sexual assault, domestic violence, dating violence, and stalking (SSDDS). H.B. 2772 H.D. 1 would require UH to enact many of the initial recommendations communicated to the Legislature by the Taskforce's 2015 Report 20 days prior to the convening of the 2016 Legislative Session, with due dates for the implementation of some recommendations.

As a member of the Taskforce, we regularly receive updates from various UH sources, including students, UH faculty and staff, and representatives from Campus and System administration concerning UH's progress in implementing the Taskforce's recommendations.

We note that, under the guidance of the newly-established UH System Office of Institutional Equity, UH has begun taking affirmative steps to establish system wide training programs for all UH employees and students regarding the requirements of Title IX, the Violence Against Women Act, and UH policies concerning SSDDS. UH is also beginning to address other policies that are related to issues of SSDDS, including ones applicable to relationships between students and professors and alcohol consumption. Moreover, campuses are proceeding with the identification and publication of confidential resources for advocacy, crisis counseling and other

services. We agree that these efforts should proceed to completion with all due haste, but defer to the task force Chair, Ms. Jennifer Rose of the UH Office of Institutional Equity, and Vice Chair, Ms. Catherine Betts of the Hawai'i State Commission on the Status of Women, with respect to the establishment of specific time frames and due dates at this time.

We offer the following suggestions for the revision of H.B. 2772 H.D. 1, based on our concern for the safety, health, and well-being of victims as the task force's recommendations are implemented. All of the below-described suggested language for the Committee's consideration is attached with this testimony as Exhibit A.

1. With regard to H.B. 2772 H.D. 1's Section 2 addition of Hawai'i Revised Statutes (HRS) § 304A – (a)(6), we ask that the Committee please consider adding language excepting mandated reports of child and vulnerable adult abuse from the confidentiality granted to students communications with confidential advocates.

If, during discussions with a confidential advocate, a university student, employee or other affiliated person discloses information which may cause the confidential advocate to believe that child abuse or neglect, as defined in HRS Chapter 350, or vulnerable adult abuse, as defined in Chapter 346, is occurring, and if that resource is required by law based on their profession, licensure/certification, employment or other role to report that abuse to appropriate authorities under HRS Chapters 350 and 346, the abuse should be reported to protect the child or vulnerable adult.

2. With regard to H.B. 2772 H.D. 1's Section 2 addition of HRS § 304A – (a)(7), we ask that the Committee please consider also including language that UH should publicize confidential advocate information in written and electronic materials and trainings, in addition to campus websites.

As noted in the Taskforce's 2015 Report, not all members of the University System community are necessarily web-savvy, and so important information, such as where to access confidential advocacy, should be conveyed through as many different means as practicable.

We appreciate the Committee's consideration of these comments.

EXHIBIT A

HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

H.B. NO. 2772
H.D. 1

A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the affirmative consent task force, established by Act 222, Session Laws of Hawaii 2015, reviewed and made preliminary recommendations on the University of Hawaii executive policy regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

The legislature finds that this issue is a matter of statewide concern that falls under its purview pursuant to article X, section 6, of the Hawaii State Constitution.

The purpose of this Act is to adopt the preliminary recommendations of the affirmative consent task force.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to subpart A of part I to be appropriately designated and to read as follows:

"§304A- Campus safety and accountability. (a) The University of Hawaii shall:

- (1) Train all University of Hawaii students and employees, including security personnel, Title IX coordinators, and residential advisors, on:

 - (A) Public Law 92-318, Title IX of the federal Education Amendments of 1972, as amended;
 - (B) The Violence Against Women Act of 1994, as amended; and
 - (C) University of Hawaii executive policies on sexual harassment, sexual assault, domestic violence, dating violence, and stalking;
- (2) Provide all existing University of Hawaii employees with the training described in paragraph (1) by December 31, 2016, and every two years thereafter;
- (3) Provide all new University of Hawaii employees with the training described in paragraph (1) no later than thirty days after the date of first employment;
- (4) Provide all students with the training described in paragraph (1) annually;
- (5) Prohibit any student who does not complete the training described in paragraph (1), as required by paragraph (4), from registering for classes the next semester and from graduating;
- (6) At each campus of the University of Hawaii system, designate a confidential advocate for students to confidentially

discuss incidents of, and obtain information on,
sexual harassment, sexual assault, domestic violence,
dating violence, stalking, and related issues,
PROVIDED THAT CONFIDENTIAL ADVOCATES AND
COMMUNICATIONS RECEIVED BY THE CONFIDENTIAL ADVOCATES
SHALL NOT BE EXEMPT FROM ANY OTHERWISE APPLICABLE
MANDATORY REPORTING REQUIREMENTS FOR CHILD AND
VULNERABLE ADULT NEGLECT AND ABUSE AS PROVIDED BY THE
HAWAII REVISED STATUTES CHAPTERS 350 AND 346;

(7) Publicize the name, location, phone number, and email
address of the confidential advocate on the website of
each respective campus, AND IN WRITTEN AND ELECTRONIC
MATERIALS AND TRAININGS CONCERNING TITLE IX, THE
VIOLENCE AGAINST WOMEN ACT, OR UH POLICIES CONCERNING
SEXUAL HARASSMENT, DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT AND STALKING; and

(8) 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.

(b) All University of Hawaii faculty members are designated as
"responsible employees" under Public Law 92-318, Title IX of the
federal Education Amendments of 1972, as amended, and shall

report any violations of University of Hawaii executive policies regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking to the Title IX coordinator of the faculty member's campus; provided that any faculty member designated as a confidential advocate pursuant to subsection (a) (6) shall not be a "responsible employee"; provided further that the confidential advocate shall provide general statistics to the Title IX coordinator on an annual basis about the number and type of incidents received by the confidential advocate.

(c) Romantic relationships:

(1) Between a University of Hawaii student and a University of Hawaii faculty member;

(2) Between a University of Hawaii graduate student assistant and a University of Hawaii faculty member; and

(3) Between a University of Hawaii graduate student assistant and a University of Hawaii staff member,

are prohibited.

(d) Any student who reports an incident of sexual assault, including incidents in which the student making the report is under the age of twenty-one and has consumed alcohol, shall not be subject to disciplinary action by the University of Hawaii for acts evidenced by information provided by the student or

information obtained based upon information provided by the student.

(e) Starting no later than December 31, 2016, the University of Hawaii shall conduct a campus climate survey of all students every two years. The University of Hawaii shall submit a report to the legislature no later than twenty days before the convening of each regular session that shall include:

- (1) A summary of the most recent campus climate survey results;
- (2) Information on the number of sexual assaults that occurred on a University of Hawaii system campus within the past five years; and
- (3) Recommendations and efforts to improve campus safety and accountability.

(f) The University of Hawaii shall establish policies and procedures to effectuate this section."

SECTION 3. (a) No later than December 31, 2016, the University of Hawaii shall revise, as necessary, all University of Hawaii executive policies regarding:

- (1) Student conduct;
- (2) Nondiscrimination;
- (3) Complaint procedures;
- (4) Campus security;
- (5) Alcohol consumption;

(6) Housing; and

(7) Workplace nonviolence,

that conflict with any University of Hawaii executive policy regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking, including University of Hawaii executive policy number 1.204.

(b) The University of Hawaii shall enter into memoranda of understanding with all county police departments by December 31, 2016, to govern communications and procedures for addressing sexual assaults that occur on University of Hawaii system campuses.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2025.

Report Title:

Affirmative Consent Task Force; Campus Safety; Sexual Assault

Description:

Requires UH to train employees and students on sexual harassment policies, appoint a campus advocate at each campus for students to discuss incidents of sexual harassment, report sexual assault cases to the police, and conduct a campus climate survey.

Prohibits romantic relationships between, among others, a UH student and a UH faculty member. (HB2772 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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LATE

The Twenty-Eighth Legislature, State of Hawaii
The Senate
Committee on Higher Education

Testimony by
Hawaii Government Employees Association

March 22, 2016

H.B. 2772, H.D. 1 – RELATING TO THE
UNIVERSITY OF HAWAII

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO would like to provide comments on H.B. 2772, H.D. 1, which adopts the Affirmative Consent Task Force's preliminary recommendations regarding sexual harassment policies and prohibits romantic relationships between University of Hawaii students and faculty members.

While we appreciate the Task Force's efforts and hard work, we respectfully suggest that the Task Force's recommendations are still preliminary, with the final report and findings anticipated to be completed on June 30, 2017. The legislative intent and timeline provided in Act 222, Session Laws of Hawaii 2015, which created the Affirmative Consent Task Force, should be adhered to; any statutory changes made prior to the Task Force's final report may be premature. Additionally, we are currently in consultation with the University of Hawaii regarding consensual relationships in the workplace and therefore believe statutory provisions to prohibit romantic relationships are unnecessary at this time.

Thank you for the opportunity to provide comments on H.B. 2772, H.D. 1.

Respectfully submitted,


for Randy Perreira
Executive Director