

HB2772 HD1

Testimony

Title: RELATING TO THE UNIVERSITY OF HAWAII.

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)

Companion:

Package: None

Current Referral: HEA, JDL/WAM

Introducer(s): CHOY



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Higher Education and the Arts
Tuesday, March 22, 2016 at 1:30 p.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 2772 HD1 – RELATING TO THE UNIVERSITY OF HAWAII

Chair Taniguchi and Members of the Senate Committee on Higher Education and the Arts:

Thank you for the opportunity to present testimony on HB 2772 HD1 – 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. 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 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 HD 1 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'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'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'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.

With regard to HB 2772 HD1's requirement for a "consensual relationships" policy, the University updated a draft of the Consensual Relationships policy last year. The new draft is currently pending consultation with the appropriate unions. We are optimistic that the appropriate roll out methods will begin within the upcoming month. As such, we believe this measure is unnecessary.

HB 2772 HD1 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. 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>.



UNIVERSITY
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SYSTEM

Written testimony presented to the Senate Committee on Higher Education and the Arts
March 22, 2016 at 1:30pm

By
Farrah-Marie Gomes, Chair

HB 2772, HD1 – RELATING TO THE UNIVERSITY OF HAWAII

Dear Chair Taniguchi and Members of the Committee,

Thank you for this opportunity to provide testimony on HB 2772, HD1 that proposes to adopt the preliminary recommendations of the affirmative consent task force. I present this testimony as Chair of the University of Hawai'i President's Commission on the Status of Women (UH-CSW) and on behalf of the Commission.

The UH-CSW appreciates the intent of this bill; however, we believe this bill could be counterproductive to the purpose of Act 222 that was signed into law by Governor David Ige on July 10, 2015. Several of our commissioners are appointed members of the Act 222 Task Force as a result of the positions they hold and/or the roles they serve on their respective campuses. These members have been engaged in the Act 222 meetings and have contributed to the aforementioned report. The UH-CSW would like to recognize the hard work of the Office of Institutional Equity and all task force members, those internal and external to the University.

It is just as important to acknowledge that the report included preliminary recommendations. The conversations regarding the University's executive policy concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking continue. It would be premature at this point to require implementation of the preliminary recommendations without allowing the Task Force the opportunity to complete the work it was tasked to carry out in its entirety. Execution of any recommendations at this point might not be comprehensive in nature.

Formed in 1972 at the UH Manoa campus, the UH-CSW expanded in 1986 to include faculty, staff and students appointed by the President of the University of Hawaii, with representatives from our system offices and 10 campuses across the State. The UH-CSW is committed to supporting the well-being, development, and advancement of all University women. The Commission actively promotes a working and learning environment free of sexism and discrimination through policy, advocacy and education.

This mission is achieved through serving as a conduit for information between the administration and the total University community by making recommendations to the UH President on issues that have particular relevance for women, including, but not limited to safety and security, equity, access, retention, and advancement; fostering an awareness, understanding and recognition of the potential, contributions, special challenges and many roles women play in a University community; and developing alliances with like organizations throughout the community, state, and nation.

In line with our mission, the UH-CSW remains committed to the purpose of the Act 222 Task Force. We are pleased to have multiple members of our commission serving on this task force. We are aware that the second Act 222 Task Force Report is due 20 days before the convening of the Regular Session of 2017. For these reasons, the UH-CSW opposes HB 2772 HD 1 and respectfully asks that the Act 222 Task Force be allowed to carry out its charge in the original timeline provided.

Thank you for this opportunity to submit testimony.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
JUDY KERN
MARILYN LEE
AMY MONK
LISA ELLEN SMITH

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

March 21, 2016

To: Senator Brian Taniguchi, Chair
Members of the Senate Committee on Higher Education and the Arts

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

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

As Co-Chair of the Act 222 Affirmative Consent Task Force (“Task Force”), I appreciate the language set forth in HB 2772 and the 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 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. These recommendations are ongoing and require intensive fact finding and evidence gathering.

The Commission strongly supports the language in HB 2772, HD1. However, HB 2772, HD1 has the potential of rendering the task force recommendations obsolete. The Task Force has an additional year to research, develop, and compile its final recommendations to the Hawaii State Legislature. The Commission respectfully requests 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. The Commission applauds the legislature for its commitment to campus safety.

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.



March 22, 2016

To: Senator Brian Taniguchi, Chair

From: Jeanne Y. Ohta, Co-Chair

RE: HB 2772 HD1 Relating to the University of Hawaii
Hearing: Tuesday, March 22, 2016, 1:30 p.m., Room 224

POSITION: SUPPORT

The Hawai'i State Democratic Women's Caucus (HSDWC) writes in support of HB 2772 HD1 Relating to the University of Hawaii which seeks to implement the recommendations of the Affirmative Consent Taskforce.

HSDWC has long been concerned over the University of Hawaii's lack of compliance with Title IX. Although some progress has been made in the last year, more needs to be done to bring the UH System into full compliance. Implementing the recommendations of the Affirmative Consent taskforce will move UH along the path of compliance with Title IX. Hawaii's college students deserve a safe environment in which to study. Anything less distracts from their ability to fulfill their educational needs and professional goals.

We respectfully request that the committee pass this measure. Thank you for the opportunity to provide testimony in support.

From: mailinglist@capitol.hawaii.gov
To: [HEA Testimony](#)
Cc: laurie.field@ppvnh.org
Subject: *Submitted testimony for HB2772 on Mar 22, 2016 13:30PM*
Date: Saturday, March 19, 2016 11:57:12 AM

HB2772

Submitted on: 3/19/2016

Testimony for HEA on Mar 22, 2016 13:30PM in Conference Room 224

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

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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