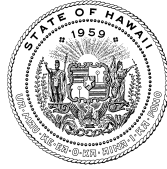


DAVID Y. IGE  
GOVERNOR



WRITTEN ONLY

WESLEY K. MACHIDA  
DIRECTOR

RODERICK K. BECKER  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
ON  
HOUSE CONCURRENT RESOLUTION NO. 48

March 22, 2016  
10:30 a.m.

REQUESTING THE GRADUATE ASSISTANTS OF THE UNIVERSITY OF HAWAII SYSTEM, WITH THE ASSISTANCE OF THE HAWAII LABOR RELATIONS BOARD, TO CONDUCT A CONFIDENTIAL VOTE ON WHETHER THEY ARE IN FAVOR OF BECOMING PUBLIC-SECTOR UNIONIZED EMPLOYEES

This measure requests the University of Hawaii (UH) System, with the help of the Hawaii Labor Relations Board, conduct a confidential vote on whether graduate student assistants employed by the UH are in favor of becoming public-sector unionized employees, and report to the Legislature no later than 20 days prior to the convening of the Regular Session of 2017.

The Department of Budget and Finance opposes this measure. UH has outlined several reasons why it is best to keep collective bargaining out of the management of these student-employees in their testimony on various bills allowing this group to collectively bargain. The cost implications of allowing graduate students to collectively bargain are a special concern, especially in UH's current fiscal situation.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Labor and Public Employment  
March 22, 2016 at 10:30 a.m.

By  
Risa E. Dickson  
Vice President for Academic Planning and Policy  
University of Hawai'i

HCR 48/HR 16 – REQUESTING THE GRADUATE ASSISTANTS OF THE UNIVERSITY OF HAWAII SYSTEM, WITH THE ASSISTANCE OF THE HAWAII LABOR RELATIONS BOARD, TO CONDUCT A CONFIDENTIAL VOTE ON WHETHER THEY ARE IN FAVOR OF BECOMING PUBLIC-SECTOR UNIONIZED EMPLOYEES

Chair Nakashima, Vice Chair Keohokalole, and members of the House Committee on Labor and Public Employment:

I am providing testimony on behalf of the University of Hawai'i (UH) regarding House Concurrent Resolution (HCR) No. 48 and House Resolution (HR) No. 16 – Requesting the Graduate Assistants of the University of Hawai'i System, with the assistance of the Hawai'i Labor Relations Board, to conduct a confidential vote on whether they are in favor of becoming public-sector unionized employees.

The UH offers for consideration the following comments on HCR 48 and HR 16:

While the UH does not oppose the request and assistance of the Hawai'i Labor Relations Board (HLRB) to conduct the confidential vote with Graduate Student Assistants, the UH believes that the HLRB should first conduct a study as to whether it is appropriate and within the spirit and intent of Article XIII, Section 2 of the Hawai'i State Constitution to allow and provide graduate student employees to have collective bargaining rights under HRS, Chapter 89, pursuant to their authority established under HRS, §89-5(i)(8).

The UH believes that graduate student assistants are not your typical “persons in public employment” and are distinctively different from all other public employees already established bargaining units under HRS, §89-6.

As noted in our prior testimonies on bills related to this subject matter “...**graduate student assistants are students first and employees second.**” This statement, from the Governor’s Message No. 1328, dated July 13, 2015, articulates one of the concerns and issues raised in Governor Ige’s *Statement of Objections* toward House Bill 553, which he vetoed in 2015.

Graduate Student Assistantships are not career positions or career occupations in the UH or within the State's government service, unlike all other positions in the already established fourteen (14) collective bargaining units under HRS, §89-6.

From an employment perspective, the UH questions the rationality of requiring the State and the University to collectively bargain employment with employed students – in this case, graduate student assistants since they are unlike any other employees of the State. Primarily, they are students who are granted a work opportunity as part of their educational package and experience. Graduate student assistants are student learners. They are at the University to learn in their chosen fields of study and to train for professional placement upon completion of their studies. These graduate student assistants are mentored and supervised by our rank 3, 4, and 5 Faculty members who hold Ph.Ds. and have many years of proven professional competence and experience, including evidence of proficiency in teaching and/or research. Part of our efforts as University mentors is to teach graduate assistants the subject matter or discipline in the field that they are pursuing. An equal or larger part of our efforts is devoted to developing graduate student assistants as academic professionals with real job skills in research techniques and teaching expertise, contributing to scholarly and research disciplines at national and international levels. They learn these essential skill sets while in their graduate assistant positions under the guidance and supervision of our current faculty employees. A graduate student assistant is an on-the-job training or apprenticeship training program. It is not a career or a profession, but a form of training most faculty must complete to pursue a career in higher education. There are no long term career opportunities for graduate student assistants at the University and a University's priority is degree completion for these graduate student assistants.

In addition, there are significantly different approaches in dealing performance and misconduct issues with Graduate Student Assistants compared to employees. For performance issues, employees, upon hiring, are subject to what is termed as a probationary period during what the supervisor, manager, or director carefully considers whether the employee is able to meet the standards, duties, assignments, and expectations of the job, and whether the employee should be retained as a regular or tenured employee. During this period, the employee is evaluated on performance measurements, including but not limited to, ability to learn and perform job duties, quality of work, productivity, work habits, cooperation, attendance, punctuality, etc. There are different established standards and time periods for which employees are subject to based on whether they are in a civil service position, faculty, or administrative/professional/technical position. They are evaluated on their performance as an "employee" wherein the expectation, as an employer, is that they should be able to perform these duties and responsibilities within a reasonable period of time since they have already obtained the minimum qualifications, and in some cases, the desirable qualifications based on work experience and educational accomplishments. If they are unable to fulfill the duties and responsibilities of the position, they are released from employment.

In contrast, as mentioned above, graduate student assistants are students who do not possess the minimum qualifications for a Faculty position but are training and learning

to eventually meet the minimum qualifications and experience in that they will eventually be able to obtain or be hired into a position (i.e. akin to an on-the-job training and/or apprenticeship program). Graduate assistants are generally evaluated for continuation based on good standing in their academic program of study, not on their competence in the work of the assistantship. They are in a learning/training role and retention in their positions is not entirely based on their performance of the work function. From a manager/supervisor perspective, this is a different approach and concept from what they are used to in dealing with current UH employees in public employment positions. If graduate assistants are to be considered employees first, students second, then the long established conceptual approaches must be revisited since they are inconsistent with and contrary to established practices on how the UH deals with its employees during their probationary periods and in regards to addressing substandard performance.

From a misconduct standpoint, all UH employees are subject to discipline under the recognized “just cause” labor standard while UH students and student employees are governed by the UH Student Conduct Code. While there are similarities between the two, there are differences in the approach taken to address such allegations of employee misconduct. Again, the conceptual approaches in dealing with allegations of misconduct in employee versus students will need to be revisited since the student sanctions vs. disciplinary actions need to be realigned if graduate student assistants are to be considered employees.

The UH also believes that allowing graduate student assistants to be treated as public employees covered under the State’s collective bargaining law will increase costs to both the UH and the State. This also would include graduate student employees membership into the State’s Employee Retirement System (ERS), wherein in some situations, an employee serving the maximum time as a graduate student assistant (i.e. 10 years), will now be a vested member of the ERS. Imagine a retirement system vesting student employees with retirement benefits while serving time in an on-the-job training or internship program.

In addition, there will also be significant cost increases for both the University and the State of Hawai‘i if graduate student assistants are granted collective bargaining rights. Graduate student assistants of the University are currently compensated via a package that includes a variety of benefits. We believe the current levels of compensation for graduate student assistants are competitive, taking into consideration tuition waivers and monetary stipends as well as the current opportunity for graduate assistants who have 50% appointments to enroll in the same health and benefit plans (medical, prescription drugs, dental, vision and life insurance) as employees. Graduate assistants who are also full-time students are exempt from the FICA tax. If graduate assistants are to be considered employees first, students second, and entitled to collective bargaining rights, then all mandatory subjects of bargaining under HRS, §89-9(a), will now be “cost items” subject to legislative appropriations pursuant to HRS, §89-10(b). All compensation collectively bargained for can be treated as wages that will be subject to employment and income taxes – an issue graduate assistants may not be considering as it relates to tuition waivers. What the State needs to consider is the financial

implications granting this right to graduate assistants in regards to the increase to the State's General Fund, as well as, the increase operational expense to the University as the State struggles to fund the current costs of the existing fourteen (14) bargaining units.

Thus, the UH recommends that HCR 48 and HR 16 be amended to request that the HLRB first conduct a study on whether it is appropriate and within the spirit and intent of Article XIII, Section 2. of the Hawaii State Constitution to allow and provide graduate student employees to have collective bargaining rights under HRS, Chapter 89, pursuant to their authority established under HRS, §89-5(i)(8), and if so, then to conduct a confidential vote on whether graduate student employees are in favor of becoming public-sector unionized employees.

Thank you for the opportunity to testify.

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, March 21, 2016 7:30 PM  
To: LABtestimony  
Cc: EH30@hawaii.edu  
Subject: Submitted testimony for HCR48 on Mar 22, 2016 10:30AM

**HCR48**

Submitted on: 3/21/2016

Testimony for LAB on Mar 22, 2016 10:30AM in Conference Room 309

| Submitted By    | Organization | Testifier Position | Present at Hearing |
|-----------------|--------------|--------------------|--------------------|
| Edward Hoogland | Individual   | Oppose             | No                 |

Comments: This is a dishonest attempt to derail GAs' unionization efforts. Our right to unionize is separate from our desire to unionize. Requiring us to fill out a confidential poll with "leading," "non-neutral" questions demonstrates that this is an effort to undermine the process. If given the right to unionize, the GSO is fully capable of educating the GAs of the pros and cons of unionization. Moreover, the GSO has already sent a poll out asking similar questions. HCR 48 is unneeded. What will the State Legislature do with this information??? If the process reveals that GAs didn't want to unionize, then what? Make it illegal (again)?

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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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, March 21, 2016 8:50 PM  
To: LABtestimony  
Cc: kwhitman@hawaii.edu  
Subject: Submitted testimony for HCR48 on Mar 22, 2016 10:30AM

**HCR48**

Submitted on: 3/21/2016

Testimony for LAB on Mar 22, 2016 10:30AM in Conference Room 309

| Submitted By    | Organization | Testifier Position | Present at Hearing |
|-----------------|--------------|--------------------|--------------------|
| Kathryn Whitman | Individual   | Support            | No                 |

Comments: Please support the unionization of graduate students at the University of Hawaii at Manoa. We need stronger leverage in order to bargain with the UH administration. Our efforts to interface and engage with the administration have left us feeling neglected and unheard. We acknowledge that we have had a small amount of success making temporary changes, like stopping departments from firing some graduate students last year. However, many of our concerns were not addressed and none of the major changes that are important to us are being made. Collective bargaining rights will allow grad students to work to normalize stipends and address other important issues related to grad student life in the workplace.

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, March 21, 2016 10:24 PM  
To: LABtestimony  
Cc: bp32@hawaii.edu  
Subject: Submitted testimony for HCR48 on Mar 22, 2016 10:30AM

**HCR48**

Submitted on: 3/21/2016

Testimony for LAB on Mar 22, 2016 10:30AM in Conference Room 309

| Submitted By            | Organization | Testifier Position | Present at Hearing |
|-------------------------|--------------|--------------------|--------------------|
| Bret Polopolus-Meredith | Individual   | Oppose             | No                 |

Comments: Graduate assistants deserve the right to unionize. Whether they exercise that right is a separate issue. I hope this request is not a stalling tactic. Graduate assistants have been at the mercy of UH for decades. And in recent years, there has been no mercy. UH already treats graduate assistants collective under one policy and one pay schedule. Yet, graduate assistants have no means to negotiate collectively. Graduate assistants just want basics that there fellow Hawaii state employees share: sick days, par ental leave, an independent grievance process, and pay that at lease rises with inflation. I, for one, despair that UH will ever offer these basics. I am leaving UH and believe the recent declining graduate student population is leaving for similar reasons . The time has come for the legislature and UH to ask the really hard question: does Hawaii need graduate education? If conditions don't improve, then people will leave Hawaii to attend elsewhere. The majority of college age students already leave for undergraduate education. Graduate assistants are merely asking for the right to work on these issues that nobody else has shown they will. I'm confident how graduate assistants will vote. I'm not opposed to the idea of a poll. I'm concerned that somebody is trying to stall this process for yet another year.

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, March 22, 2016 6:39 AM  
To: LABtestimony  
Cc: jwruss@hawaii.edu  
Subject: Submitted testimony for HCR48 on Mar 22, 2016 10:30AM

**LATE**

**HCR48**

Submitted on: 3/22/2016

Testimony for LAB on Mar 22, 2016 10:30AM in Conference Room 309

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| John Walsh Russell  | Individual          | Oppose                    | No                        |

Comments: So this resolution just popped up without forewarning? And during the week of spring break when many of the relevant party this affects may be travelling? It doesn't seem very just.

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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**LATE**

DATE: Tuesday, March 22, 2016  
TIME: 10:30 a.m.  
PLACE: Conference Room 309

To: House Committee on Labor  
Representative Mark M. Nakashima, Chair  
Representative Jarrett Keohokalole, Vice Chair

Re: Opposition to HCR48

Dear Chair Nakashima, Vice Chair Keohokalole, and Members of the House Committee on Labor and Public Employment,

Thank you for the opportunity to provide testimony. My name is Jonathan Dial, and I am the President of the Graduate Student Organization (GSO) at the University of Hawai'i at Mānoa (UHM), which is the governance body for roughly 5,000 graduate students. I am writing in strong opposition to HCR48.

There is undeniably strong support from graduate assistants and graduate students overall for collective bargaining rights for graduate assistants. These efforts have been on-going since the 1970s and have amplified greatly in recent years, and they have been strongly supported by the GSO's General Assembly and Executive Council. Multiple forums and meetings have been held on graduate assistant unionization, and no opposition has been voiced by any graduate students. Furthermore, multiple surveys have been conducted throughout the years on support for unionization, and the most recent (conducted in 2012) found that 85% of graduate students support these efforts. Additionally, there is a survey currently in progress that seeks to reaffirm the level of support, and that survey will be completed in the second week of April of 2016.

Passing this resolution would delay collective bargaining for graduate assistants by at least one year, and it is vital that relief be granted to these employees as soon as possible. As it is, graduate student enrollment at UH is dropping precipitously, and employment and financial problems are the biggest culprits for that decline. Since efforts to address these problems internally to the University have been consistently blocked, it is likely that graduate employees will continue to suffer and enrollment will continue to drop. Please oppose HCR48.

Respectfully submitted,

Jonathan Dial  
President, Graduate Student Organization