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

WRITTEN ONLY

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1274, H.D. 1, PROPOSED S.D. 1

**April 5, 2019
10:10 a.m.
Room 211**

RELATING TO EDUCATION

This measure allows graduate students employed by the University of Hawaii (UH) to collectively bargain by amending Chapter 89-6, HRS, to remove the exemption from collective bargaining for graduate student assistants employed by the UH and authorizing a new Bargaining Unit 15.

The Department of Budget and Finance has strong concerns with this measure. The cost implications of allowing graduate student assistants to collectively bargain are a concern, for both the state budget and for UH's current fiscal situation. Negotiation of pay increases for graduate students needs to be weighed against the foregone revenue from tuition waivers and other fees that graduate students do not pay as part of their assistantships. Further, their work hours and work conditions would all need to be part of collective bargaining negotiations that might not fit the flexible schedules that graduate students require to complete their academic program.

Thank you for your consideration of our comments.



Friday, April 5, 2019

HB1274 HD1 Proposed SD1
Testifying in Support

Aloha, Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means,

The Democratic Party of Hawai'i (The Party) **supports HB1274 Proposed SD1**, which establishes a collective bargaining unit for graduate assistants employed by the University of Hawaii.

This bill would enable Graduate Assistants to exercise their constitutionally guaranteed right to organize for the purposes collective bargaining.

Collective bargaining provides a means by which to resolve workplace disputes, improving working conditions, and create a more harmonious and ethical society. The right of workers to engage in collective bargaining is the core principle of the labor movement and the Democratic Party of Hawaii. When workers have the ability to collectively bargain wages, benefits, protections, etc. everyone benefits.

Generally speaking, as the decline in union membership has declined across the country, so too have wages, benefits, and protections for all workers.

While the University of Hawaii has repeatedly said they would make changes to address the legitimate concerns of the Graduate Assistants, they have yet to do so. The time has long since passed to allow this integral group of employees the ability to collectively bargain. Graduate Assistants are underpaid and receive no health, sick or family leave benefits. Additionally, Graduate Assistants face high rates of sexual harassment and currently have no recourse when faced with threatening and derogatory statements made by students in their classes.

The legislature sent a similar bill to the Governor's desk in 2015. While the Governor did veto that bill, the Party notes that this bill includes improvements which directly address the concerns identified in the Governor's Veto Message:

- Lacked a bargaining unit: HB1274 Proposed SD1 assigns graduate assistants to bargaining unit 15.
- Failed to identify the appropriate employer group: HB1274 Proposed SD1 identifies the employer group as the Governor, President of the University of Hawaii, and the Board of Regents.
- Did not contain an impasse resolution mechanism: HB1274 Proposed SD1 includes an

impasse resolution mechanism consistent with bargaining units 5 and 7.

For all these reasons, we urge you to pass this bill.

Mahalo for the opportunity to testify,



Josh Frost
Co-Chair, Legislation Committee
Democratic Party of Hawai'i



Zahava Zaidoff
Co-Chair, Legislation Committee
Democratic Party of Hawai'i



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
April 5, 2019 at 10:10 a.m.

By
Donald O. Straney
Vice President for Academic Planning and Policy
University of Hawai'i System

HB 1274 HD1 Proposed SD1 – RELATING TO EDUCATION

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

The University of Hawai'i (UH) writes in opposition to HB 1274 HD1 Proposed SD1, which would establish a collective bargaining unit for graduate assistants employed by the University of Hawai'i.

UH employs three types of graduate assistants, as defined in Executive Policy 5.223:

- Graduate Assistants (GAs) providing academic and program support to units of the university. Their duties are not directly related to teaching or research and include academic advising, program planning, advising student groups, and assisting with the administration of student services offices.
- Graduate Teaching Assistants (GTAs) work under the supervision of a faculty member and they may teach sections of a multi-section course, assist a faculty member in grading assignments or exams, advising students, and performing course-related administrative and support duties. All new GTAs are required to attend a training session offered by the Office of Faculty Development and Academic Support - Center for Teaching Excellence.
- Graduate Research Assistants (GRAs) usually support the research activities of a faculty member who is the Principle Investigator on an extramurally funded grant. Their duties vary with the subject matter of the grant and may be related to the subject of the student's thesis or dissertation.

Graduate Student Welfare in General

Not all graduate students at the University are employed as graduate assistants. At UH Mānoa in Spring 2019, only 1286 of the 4177 graduate students enrolled (31%) were employed as graduate assistants. In addition, graduate students can be hired as hourly employees (i.e., they are not considered graduate assistants) on campus through the same process used for undergraduate students.

Although proponents of this bill suggest that unionization is the answer to address social support or campus services for graduate assistants, the university already provides extensive support for student welfare through policies and programs.

The Graduate Division at UH Mānoa provides extensive services to all graduate students, including an orientation program for new students, professional development sessions on thesis/dissertation writing, research presentations, University research compliance matters, personal wellness and career/life balance, etc. Graduate Division's web site (<https://manoa.hawaii.edu/graduate/>) provides information on Title IX and sexual harassment policies and resources specifically tailored to graduate students. One of the seven Deputy Title IX Coordinators at UH Mānoa is the Associate Dean in Graduate Division, who provides ready access for graduate students to the Title IX resources on campus and is typically the first point of contact to help resolve any issues brought to the attention of Graduate Division.

UH Mānoa provides confidential support and advocacy in specific areas of student concern. All students can access Lesbian, Gay, Bisexual, Transgender Student Services, the Office of Gender Equity, the Prevention, Awareness, and Understanding (PAU) Violence Program, and Student Parents at Mānoa. These units provide advocacy, support, referrals, and direct student services to graduate students. The Counseling and Student Development Center offers confidential counseling and emotional support to students, and they offer walk-in appointments for urgent or emergency/crisis services. University Health Services at Mānoa is staffed by physicians, nurse clinicians, nurses and other staff to offer a wide range of medical services and programs that graduate students can access.

Many of these offices and programs have outreach and communication events to help students understand policies and laws as well as resources and how to access them.

As an example, the Title IX office at UH Mānoa has delivered 19 in-person, department-specific training programs on Title IX for graduate students only. Their plans are to increase the number of training sessions, and to hold some that are open to all graduate students.

All students at UH Mānoa can utilize the Academic Grievance Procedure through the Office of Student Affairs to pursue concerns about grades and course-related matters. In addition, graduate students can also pursue a grievance through Graduate Division's Grievance process for concerns about graduate program requirements, qualifying or comprehensive examinations, the composition of their thesis or dissertation committee, final defense of their thesis or dissertation, or infringement of intellectual property. Graduate assistants can utilize Graduate Division's Grievance process to address concerns related to their supervisor, supervision or lack thereof, workload, working conditions, etc. Grievances involving professional practices within a

specific graduate program are handled by the program, with final authority resting with the Dean.

The academic interests of graduate students at UH Mānoa are represented by the Graduate Student Organization (GSO), comprised of representatives from each graduate program. As part of the academic governance process at UH Mānoa, they provide input on all issues affecting graduate students. Members of GSO have seats on over 40 campus committees, including two seats on the Graduate Council, which meets monthly to advise the Graduate Dean on matters related to graduate education. GSO members have a voice in the Council's work related to curriculum, new graduate degrees and certificates, and discussions relative to policies and procedures affecting graduate students. Active in an array of student, campus, and community events, GSO also manages a robust grants and awards program to help foster research excellence among graduate students.

It is concerning that there are graduate students and graduate assistants who claim they do not know of the resources provided by the University for their welfare as students. The University can certainly re-double its efforts to provide effective and pervasive education, training and support services to all students on Title IX, sexual harassment, workplace and family/acquaintance violence. However, unionization of graduate assistants, in and of itself, does not add services. All students already have access to extensive services and resources as part of the University.

Graduate Student Employment

In addition to the concerns and experiences of graduate students in general, graduate assistants have claimed concerns related to their dual status as employees. Graduate assistants receive either a 9- or 11-month appointment, generally with a work schedule of 20 hours per week or 0.50 full-time equivalence. They are supervised by a regular faculty member, or for GAs, a staff member or manager. Recruitment and hiring decisions, such as pay rates and work assignments, are made at the department level, or for GRAs, by Principle Investigators on grants. Pay rates must conform to the minimum stipend associated with each of the 20 steps in the graduate assistant schedule, as described later in this document.

University policy and campus administrative practice define the following aspects of graduate assistant employment:

1. *Minimum qualifications and eligibility.* Students must be enrolled in a graduate program in a discipline closely related to their duties, be in good academic standing, carry at least 6 units of graduate course credit.
2. *Work assignment.* Graduate assistants are usually hired on a 0.50 FTE basis (20 hours/week). Approval from the Graduate Division is required to appoint a GA to more than or less than this norm. During non- instructional periods, GAs may work up to 40 hours/week. GAs close to finishing their degree may petition

Graduate Division to work up to 40 hours per week if the additional work is related to their thesis or dissertation.

3. *Overload pay.* Graduate assistants who work for more hours than they are appointed to work must be compensated with overload pay at the overload rate used for lecturers.
4. *Outside work.* Graduate assistants may hold only one assistantship at a time and may not be employed in another capacity at the University while they hold an assistantship. Work outside the University is discouraged as the priority for the University is the student's degree completion. However, in 2016, the University recognized the competing priority of students meeting their financial obligations and outside work is not prohibited.
5. *Tuition waiver.* Graduate assistants receive a waiver of tuition for courses taken at their campus. There is a 100% tuition exemption for graduate students with a 0.50 FTE (20 hours/week) appointment and a 50% tuition exemption for graduate students with a 0.25 FTE (10 hours/week) appointment. Graduate student assistants still must pay the required student fees.
6. *Reappointment and step increases.* Appointments may be continued annually, based upon satisfactory performance and contingent on availability of funds and continuing need. After the first year, advancement to the next step in stipend (see below) shall be considered and the supervisor would request approval by the dean or equivalent. The maximum total time a student may be a graduate assistant is three years for a master's degree student and 6 years for a doctoral or other terminal degree student.
7. *Stipend schedule.* The University establishes the minimum stipend to be paid for each of the 20 steps in the graduate assistant schedule. There is a 4% differential between steps. This schedule is for 0.50 FTE appointments for either 9 or 11 months, and the stipend for 11-month appointments is 17% greater than that for 9-month appointments. The schedule was last adjusted in Fall 2016 (see [https://www.hawaii.edu/policy/docs/temp/Attachment A Graduate Assistant Pay Schedule.pdf](https://www.hawaii.edu/policy/docs/temp/Attachment_A_Graduate_Assistant_Pay_Schedule.pdf)).

In 2013, former UH Mānoa Chancellor Tom Apple adjusted the schedule then in effect by raising the minimum stipend level for all graduate assistants to step 6. In 2017, Interim Chancellor Lassner set a new minimum stipend level for all GAs at Step 7 for Fall 2018 appointments with another increase to step 8 for Fall 2019 appointments.

8. *Benefits.* Graduate assistants with 0.50 FTE appointment who serve for a minimum of three months are eligible for health plan benefits. Graduate assistants who meet the eligibility requirements for the Family and Medical Leave Act or Hawaii State Family Leave may request leave following University procedures. They do not qualify for retirement benefits. Establishing a collective bargaining unit for graduate assistants creates a financial burden for the state and, potentially, for graduate students.

9. *Schedule accommodation and duties coverage.* Graduate assistants do not earn vacation or sick leave. In situations where a graduate assistant is unable to attend work due to illness or emergency, they are to contact their supervisor, who is designated when they are appointed (e.g., department chair, principal investigator, etc.), who will identify a way to provide accommodations in the graduate assistant's work schedule. In the case where there are critical teaching or research deadlines, the graduate assistant shall work with the designated supervisor to identify resources to provide the critical teaching or research coverage. This procedure is analogous to how faculty are required to notify their supervisor of absences because of illness.
10. *Employment-related grievances.* The University has had a grievance procedure in place since 1983 for employment-related grievances for persons (including applicants for positions) not covered by collective bargaining agreement grievance procedures or other applicable University procedures.

The University believes that we have policies and practices in place that treat graduate assistants fairly. We undertook a major revision of our policies for graduate assistants in 2016 and those revisions are reflected in many of the points listed above. It is clear from the testimony on this bill that we have more work to do in communicating our policies and practices on employing graduate assistants. Toward that end, Graduate Division at UH Mānoa convened two task forces to: 1) develop materials and training modules on the best practices for faculty mentoring of graduate students; and 2) develop policies and procedures on how to improve the mentoring process campus-wide, including the response to cases where inadequate mentoring is taking place. Graduate Division works with the faculty on the Graduate Council and the larger Graduate Assembly (composed of the faculty Chairs of all graduate programs on campus) to improve existing practices and to identify new policies and practices that will enhance the welfare of all graduate students, not just those employed by the university.

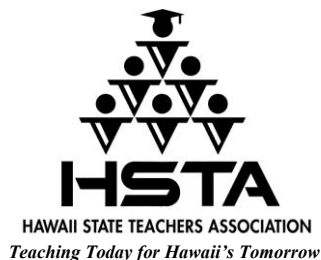
Lastly, the University is opposed to this bill as a fiscal matter. The source of funds to pay for graduate assistants are from either tuition revenue of academic programs or research grant funds. In either case, if the Legislature were to authorize collective bargaining for graduate assistants, the University would expect that funding for collective bargaining would be provided through the same means as with other authorized bargaining units – via legislative authorization and appropriation. Funding for graduate assistants is currently limited to amounts fiscally permissible via UH generated revenue. If collective bargaining results in funding increases, then it should be expected that such funding would be afforded in the appropriation process.

As a mechanical matter, graduate assistants are not like any other government employee. Graduate assistants currently receive tuition waivers as part of their compensation. The University structures compensation components with the intent that students can concentrate on achieving degree completion in timely manner. At UH

Mānoa, for example, for Fall 2019, general resident graduate student tuition will be \$663 per credit hour and most GAs take 9 credits which equates to \$5967 per semester (\$11,934 annually), while non-resident tuition is \$1558 per credit hour, typically \$14,022 per semester (\$28,044 per year on average). Graduate assistants also receive monetary stipends that can vary by their assignment. Beginning in Fall 2019, the minimum stipend level is Step 8 (\$18,930 for 9-month appointees, \$22,140 for 11-month GAs). Depending on residency, graduate program, and stipend level, the value of tuition waivers and stipends is estimated to typically range between \$30,864 (9-month GAs at the minimum stipend level taking 9 resident-rate credits per semester) and \$50,184 annually (11-month GAs at the minimum stipend level taking 9 non-resident rate credits per semester). If this bill passes it will be expected that all of these current benefits will be bargained and negotiated for as part of the collective bargaining process.

The Board of Regents' approved budget request submitted to the Governor last year and this year included funds to increase graduate assistant stipends. We would urge the Legislature to support such funding requests.

We thank you for the opportunity to submit testimony in opposition to this measure.



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TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS

RE: HB 1274, HD1, PROPOSED SD1 - RELATING TO EDUCATION

FRIDAY, APRIL 5, 2019

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Dela Cruz and Members of the Committee:

The Hawaii State Teachers Association **supports HB 1274, HD1, Proposed SD1** relating to education.

According to Article 23(4) of the United Nations Universal Declaration of Human Rights, adopted in 1948, “everyone has the right to form and to join trade unions for the protection of his interests.” Likewise, the International Labor Organization, the UN agency responsible for safeguarding international labor standards, states in its Constitution and Declaration of Principles that the freedoms to associate and bargain collectively are fundamental rights of workers worldwide.

Graduate student assistants at the University of Hawai‘i must no longer be denied their fundamental worker’s rights. We just join other states who have allowed graduate assistants to unionize. Besieged by budget cuts over the past decade, graduate students have borne increased class sizes and workloads, while suffering the same low pay of \$17,500 since the 2003-2004 academic year. Like educators throughout Hawai‘i, they have seen their purchasing power crushed beneath our state’s highest-in-the-nation cost of living.

Graduate student assistants are vital to education in the university community, performing instruction, research, and administrative work. Their labor, like all labor, should be publicly recognized by guaranteeing the right to bargain for fair wages and work conditions. To give graduate student assistants the ability to protect their interests and promote higher education, the Hawaii State Teachers Association asks your committee to support this bill.



April 2, 2019

Senate's Committee on Ways and Means
Hawaii State Capitol
415 South Beretania Street, Room 211
Honolulu, HI 96813

Hearing: Friday, April 5, 2019 – 10:10 a.m.

RE: **STRONG SUPPORT for HB 1274, HD 1 – Proposed SD 1**

Aloha Chair Dela Cruz, Vice Chair and fellow committee members,

I am writing in STRONG SUPPORT for House Bill 1274, HD 1 proposed Senate Draft 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 1274 HD 1 proposed SD 1 would establish a collective bargaining unit for graduate student assistants employed by the University of Hawaii.

The right to collective bargain is written into our State's Constitution so this proposed draft would fulfill the right guaranteed by our State's foundational document. Allowing the Graduate Assistants the opportunity to decide if they want to unionize is a priority for the LGBT Caucus of the Democratic Party and has been for several years.

We hope that you will give these workers the right to unionize if they so choose.

The LGBT Caucus humbly asks that you support the proposed Senate Draft 1.

Mahalo nui loa for your time and consideration,

Michael Golojuch, Jr.
Chair



The Senate Committee on Ways and Means
Friday, April 5, 2019
10:10 am , Conference Room 211

RE: **HB 1274, HD1, SD1 Relating to Education**

Attention: Chair Donovan M. Dela Cruz, Vice Chair Gilbert S.C. Keith-Agaran and members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committees to **support passage of HB 1274, HD1, SD1** that amends Section 89-6 of the Hawai'i Revised Statute creating a bargaining unit for the graduate assistants to help advance the interests of a group of public employees that currently do not have the right to collectively bargain.

UHPA represents the faculty across the ten campus University of Hawai'i System, and on occasion, have provided guidance to graduate assistants. The current University of Hawai'i policy governing graduate assistants does not provide the proper protections for representation for this group of public employees. Collective Bargaining would allow this group the following:

- Negotiation of grievance procedures with access to arbitration
- Protection from arbitrary and capricious behavior
- Negotiation of salary, wages and benefits

Graduate assistants are essential to instruction and research that contributes to the overall success of the University of Hawai'i. Graduate assistants are employees in the full sense of the term with continuing access to positions based on job and academic performance.

While UHPA is unable to represent graduate assistants, UHPA supports the rights of graduate assistants to organize and collectively bargain. Such a right is consistent with the labor tradition in our state and is compatible with an academic environment whereby the majority of employees have access to representation.

Thank you for the opportunity to provide testimony in **support of HB 1274, HD1, SD1**.

Respectfully submitted,

A handwritten signature in black ink that reads "Kristeen Hanselman".

Kristeen Hanselman
Executive Director

HB-1274-HD-1

Submitted on: 4/2/2019 7:37:32 PM

Testimony for WAM on 4/5/2019 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pride Work HI	Testifying for Pride at Work Hawaii	Support	Yes

Comments:

Aloha Senators,

The Pride at Work Hawaii, an affiliate of Hawaii State AFL-CIO, supports the passage of the proposed Senate Draft 1 for HB 1274 HD 1.

Allowing the graduate students at the University of Hawaii the ability to unionize is ithe right thing to do. Hawaii is a strong union state and the proposed Senate Draft 1 lives up to that!

Mahalo for your consideration and for the opportunity to testify in **STRONG SUPPORT** of proposed Senate Draft 1 for HB 1274 HD 1.

Mahalo,

Pride at Work - Hawaii

The Thirtieth Legislature
Regular Session of 2019

THE SENATE

Committee on Ways and Means
Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran Vice Chair
State Capitol, Conference Room 211
Friday, April 5, 2019; 10:10 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1274, H.D.1
RELATING TO EDUCATION**

The ILWU Local 142 **strongly supports** the proposed S.D.1 for H.B. 1274, H.D.1, which establishes a collective bargaining unit for graduate student assistants employed by the University of Hawaii.

The proposed S.D.1 for H.B. 1274, H.D.1 is not complicated – it simply gives graduate assistants a **choice** to seek collective bargaining rights by establishing bargaining unit 15 for graduate student assistants employed by the University of Hawaii - a right graduate students have been seeking for over a decade.

Our State Constitution specifically proclaims persons in private and public employment shall have the right to organize for the purpose of collective bargaining – a clause that has held strong in our Constitution for over four decades. Graduate student assistants are employed by the University of Hawaii as **employees** and perform numerous duties and tasks such as teaching classes, grading assignments, developing curriculum in addition to other responsibilities that may be assigned by the professor and/or university. Many graduate student assistants often work over 40 hours per week on a salary that is nearly equal to Hawaii's minimum wage resulting in many having to obtain two or three jobs simply to afford Hawaii's high cost of living all while attending classes to obtain their own degree(s).

Having the right to collectively bargain will provide graduate student assistants with a unified voice, improved work conditions, better workplace safety and overall a better quality of life. As current at-will employees, termination can occur at any time for nearly any reason leaving many fearful to speak up, unsure of what the recourse may be. With representation, the situation is handled fairly and appropriately – graduate student assistants can file grievances while being protected without any fear of retaliation. Further, having collective bargaining rights not only helps secure a better financial outlook including an improved work environment but also ensures proper justice occurs when an abject situation arises.

As **employees** of the University of Hawaii, graduate student assistants have every right to seek representation – they have terms of employment which includes responsibilities, work days, and work hours. The University also describes graduate student assistants as professionals that are **employed** at the school. In addition, Hawaii's Constitution grants them those rights just like other workers employed at the University of Hawaii or at other state departments and agencies.

Additionally, over 83 public and private graduate student unions have been formed across the country – including top-tier universities such as Harvard, Columbia, and Brown. The fact is,

collective bargaining rights for graduate student unions are not new or unheard of, but rather popular and continue to gain popularity each year. In truth, every worker deserves the right to organize allowing them to have the protections and financial security they deserve. While graduate student assistants employed at the University of Hawaii fall under the Hawaii Labor Relations Board (HLRB) it should be noted that in August 2016, a ruling by the National Labor Relations Board (NLRB) found that “student teaching assistants” and “student research assistants” are employees at private universities and therefore have the right to unionize under the National Labor Relations Act.

The ILWU Local 142 strongly believes all workers deserve the right to organize and strongly urges the passage of the proposed S.D.1 for H.B. 1274, H.D.1. Thank you for the opportunity to testify.



Academic Labor United

www.academiclaborunited.org

Testimony from Academic Labor United

Attention: Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Re: Strong Support for HB1274 Relating to Collective Bargaining

Mahalo for the opportunity to provide testimony. Academic Labor United (ALU) stands in strong support of this bill. ALU is working to improve the lives of the 1250+ graduate assistants employed at the University of Hawaii and gain recognition for the work we do.

HB1274 will amend HRS 89-6 to create bargaining unit 15 for graduate assistants and provide a conflict resolution mechanism for said bargaining unit that is consistent with other units representing workers employed at the University of Hawaii. This will enable graduate assistants to organize for the purposes of collective bargaining.

The majority of teaching assistants (GTA) are in charge of teaching their own classes. They do all the grading and lecturing, as well as design the syllabus and manage the classroom. Our research assistants (GRA) are often working on multiple independent projects, performing cutting-edge research, at the direction of an assigned supervisor. Other graduate assistants (GA) are working in administrative offices and running key facilities, performing the same duties as any administrative office worker.

Article 13 Section 2 of the Hawaii State Constitution states “Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law.” (Hawaii. Const. art XIII, sex. 2) Graduate assistants in every role meet the common-law test’s criteria for employment as well as the so-called ABC test’s criteria. Graduate Assistants do not control their own hours and have employment taxes withheld from their State of Hawaii issued paychecks. graduate assistants are required to attend trainings and undergo periodic evaluations. A graduate assistant’s supervisor, often a University recognized employee, controls the means and manner in which a graduate assistant carries out their work. Graduate assistants further qualify as employees under HRS 377-1 and HRS 377-4.6(C). They are recognized as employees by National Labor Relations Board, the State of Hawaii, and the University of Hawaii. It is clear that graduate assistants have a constitutionally guaranteed civil right to organize for the purposes of collective bargaining. (Hawaii. Const. art XIII, sex. 2)

The framers of Hawai‘i’s constitution granted the legislature broad powers to regulate collective bargaining in the public sector, but never intended for those powers to be used to deny workers the right to organize for the purposes of collective bargaining. This was the interpretation used by the Supreme Court of Hawai‘i when deciding *UPW v Yogi*. In that case the Supreme Court performed an exhaustive review of the framers’ deliberations over the



Academic Labor United

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language to be used in article XIII. Simply stated, the legislature does not have the constitutional authority to abrogate public workers' right to join a union.

In August 2016, the National Labor Relations Board reversed a Bush-era decision that had prevented graduate assistants at private universities from engaging in collective bargaining. They found that it “deprived an entire category of workers of the protections of the Act without a convincing justification.” (National Labor Relations Board, 2016) We are now seeing unions form at private universities such as Columbia University, Harvard University, and many more.

There are currently 83 graduate assistant unions at universities in the United States. They include the University of California System, the University of Iowa, University of Washington, University of Illinois Chicago, and many more. Graduate assistant unions have existed for 50 years. We are not seeking to depart from the norm. Collective bargaining for graduate assistants is the norm.

In the Governor's 2015 Veto Message, he stated the three flaws with the bill produced were that it 1) lacked a bargaining unit, 2) failed to identify the appropriate employer group, and 3) did not contain an impasse resolution mechanism. HB1274 assigns graduate assistants to bargaining unit 15, identifies the employer group as the Governor, the President of the University of Hawai'i, and the Board of Regents in a manner consistent with bargaining units 7 and 8. Additionally HB1274 includes an impasse resolution mechanism consistent with bargaining units 5 and 7. Revisions to the structure of the bill address all of the governors substantive concerns and are consistent with concepts of collective bargaining as practiced in Hawai'i.

The Governor had additionally expressed concerns about the fiscal implications of workers gaining the ability to bargain for a better standard of living. He specifically mentioned the impact on the Employee Retirement System (ERS). It is our understanding that that Graduate Assistants are already excluded from the ERS through administrative rules. There is nothing in HB1274 that would change that.

Graduate assistants do not have guaranteed sick days, paid medical leave, or paid parental leave. (University of Hawaii, 2016) According to a 2017 campus climate survey 16.8% of graduate students surveyed reported experiencing sexual harassment. (Loui et al. 36) Additionally, their harassers were significantly more likely to be employees at the university in positions of greater authority than other groups surveyed. (Loui et al. 38) Graduate assistants lack independent representation and adequate recourse when faced with administrative decisions that jeopardize their wellbeing and safety in the workplace. They have no formal protection guaranteeing their right to free inquiry and expression. These are issues that unions have had success resolving. The few protections they do have are contained in executive policies that can be changed by management with or without their consent.

Graduate assistants are an integral part of the UH system and the local economy. While attending UH, they constitute a committed learning community, conduct important research, and perform a substantial proportion of teaching and administrative duties. Unfortunately, they are poorly compensated and are vulnerable to capricious and arbitrary behavior by their employer.



Academic Labor United

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As individuals, we stand little chance of success in demanding better treatment and compensation, and the long history of failed attempts at improvements proves this to be true. Our best hope for improving our own situations, then, is to come together and collectively bargain for a better university. For these reasons, we strongly urge passage of HB1274.

Respectfully submitted,

Benton Rodden
Chair
Academic Labor United

Sources:

1. Hawaii. Const. art. XIII. sec. 2
2. "NLRB.gov" *Board: Student Assistants Covered by the NLRA / NLRB*. N.p.,n.d, Web. 23 Jan. 2018..
3. "Executive Policy EP 5.223, Graduate Assistants." University of Hawaii.
<https://www.hawaii.edu/policy/index.php?action=viewPolicy&policySection=ep&policyChapter=5&policyNumber=223&menuView=closed>. n.d. Web Jan 23 2018
4. Loui, Patricia, et al. *REPORT ON UNIVERSITY OF HAWAI'I STUDENT CAMPUS CLIMATE SURVEY ON SEXUAL HARASSMENT AND GENDER-BASED VIOLENCE*. Omni Trak Group, 2018.

TESTIMONY BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

RE: HB 1274, HD1, PROPOSED SD1 - RELATING TO EDUCATION

FRIDAY, APRIL 5, 2019

MITZIE HIGA, LEGISLATIVE CHAIR
DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Dela Cruz, and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **supports HB 1274, HD1, proposed SD1**, relating to education.

According to Article 23(4) of the United Nations Universal Declaration of Human Rights, adopted in 1948, “everyone has the right to form and to join trade unions for the protection of his interests.” Likewise, the International Labor Organization, the UN agency responsible for safeguarding international labor standards, states in its Constitution and Declaration of Principles that the freedoms to associate and bargain collectively are fundamental rights of workers worldwide.

Graduate student assistants at the University of Hawai’i must no longer be denied their fundamental workers’ rights. Besieged by budget cuts over the past decade, graduate students have borne increased class sizes and workloads, while suffering the same low pay of \$17,500 since the 2003-2004 academic year. Like educators throughout Hawai’i, they have seen their purchasing power crushed beneath our state’s highest-in-the-nation cost of living.

Graduate student assistants are vital to education in the university community, performing instruction, research, and administrative work. Their labor, like all labor, should be publicly recognized by guaranteeing the right to bargain for fair wages and work conditions. To give graduate student assistants the ability to protect their interests and promote higher education, the Democratic Party of Hawaii Labor Caucus asks your committee to support this bill.

HB-1274-HD-1

Submitted on: 4/2/2019 6:19:42 PM

Testimony for WAM on 4/5/2019 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Support	No

Comments:

SUBMITTING SUPPORT FOR COLLECTIVE BARGAINING FOR THE GRADUATE STUDENTS> IT"S WAY PAST TIME FOR THEM TO HAVE IT>

HB-1274-HD-1

Submitted on: 4/2/2019 6:48:49 PM

Testimony for WAM on 4/5/2019 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

To: Senate Committee on Ways and Means
Rep. Donovan M. Dela Cruz, Chair
Rep. Gilber S.C. Keith-Agaran, Vice-Chair
Members of the Committee on Ways and Means

Hearing on Friday, April 5, 2019, 10:10 a.m., Conference Room 211

Re: HB 1274, HD1 Relating to Education

Testimony of Talaivosa Moala in Strong Support of HB 1274, HD1

Thank you, Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Committee on Ways and Means for this opportunity to testify on HB 1274, HD1.

My name is Talaivosa Moala. I was born and raised on the island of O'ahu. I grew up in the Kalilhi-Palama area and then I moved with my family to the Punahou area and have been living there ever since. I attended Hawaiian Mission Elementary and Intermediate then I transferred to Washington Middle School. I completed my K-12 education at Roosevelt High School. After high school, I attended the University of Hawai'i at Mānoa and completed degrees in Political Science and Biology.

I sometimes look back at my college journey and recognize that I was not as prepared as I should have been for college. College was a struggle for me. Inside and outside of the classroom, but especially inside the classroom. If my foundation from high school were stronger I would have had easier experiences in college.

I'm not saying that it was because of the educational system alone that I was ill-prepared for college, because there were other factors. However, I do feel that the educational system should be strengthened. I feel that this bill would contribute to building Hawaii's educational system to give our youth a better chance at success.

Technology is all around us and it'll only continue to advance. Almost every job or career requires some knowledge and skill in technology. Having Hawai'i teachers learn about technology to educate their students will benefit and prepare the students of Hawai'i for whatever path they choose to pursue after high school.

It is very important to nurture and prepare the students of Hawai'i for whatever they choose to go after because they are the future of Hawai'i. Thus, I strongly support this bill.

Respectfully yours,



Talaivosa Moala

HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

H.B. NO. 1274

Thursday, April 4, 2018

Room 211, 10:10 AM

My name is Kaylee Huey. I am a junior in the social work program at University of Hawaii at Manoa. I am testifying in support of the measure of House Bill 1274, that is trying to further the accessibility of education regarding technology and computer science.

I strongly support this bill/measure, as I believe that as society progresses, technology is only becoming more and more prevalent. For teachers, the educators of our children, it is essential that they are knowledgeable in the field of computer science in order to be able to teach the younger generations about this specific field. In order to be competent in technology and computer science, appropriate funds must be given in order to implement the proper education for computer science.

In conclusion, by passing House Bill 1274, knowledge of computer science amongst the teachers and the students of society would be at a pinnacle. With the rapid advancements of society regarding technology, it is essential that the younger generations are knowledgeable of these technologies. Children are the future, so it is essential that they are educated on the advancements of society. Thank you for your time.

Kaylee Huey

HB-1274-HD-1

Submitted on: 4/4/2019 9:24:33 AM

Testimony for WAM on 4/5/2019 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dain Christensen	Individual	Support	No

Comments:

HOUSE OF REPRESENTATIVES

THIRTIETH LEGISLATURE, 2019

HB1274

April 5, 2019

Room 211 10:10 am

My name is Jordan Sleeth, I am currently a student at UH Manoa in the BSW program. I am planning on working in the field of suicide prevention in the future. I am in favor of the measure of relating to education being passed. I support this bill because technology is advancing and everything is now technology based. With children being the future they need to know and understand all of it.

In the state of Hawaii computer science classes are implemented statewide. They are required to offer at least one computer science class per year. That is a great step in the right direction for students to learn basic computer science. The problem with this is if a teacher doesn't know any of the curriculum how are they going to be able to teach the children. The school needs a teacher with computer science knowledge that will actually be able to teach the kids. The basics such as word, power point, the things you learn when you're little could easily be taught by a science or math teacher. When you get into middle school and high school the students need to be leaning more in-depth advanced things that a math teacher wouldn't know. At my high school I took a computer science class taught by a computer science professor and it was one of the most helpful things I could have ever done. I learned so much about computers and what I could do on them and that was 7 years ago, Imagine what you could learn how to do today.

In closing I believe this measure relating to education should be passed to help the schools and the youth in the school with technology. The more people know the more they will be able to help.

Jordan Sleeth

From
Yvonne Mahelona
Wesley Sparagon
Anamica Bedi
Justin Keliipaakaua
Daniel Flores
Nicholas Chagnon
Nakoa Goo
Jeremy Silva
Anthony Chang
Jessica Perelman
Perelman
Brooke Bennett
Rain Wright
Will Caron
Mike Gonsalves
Nadezna Ortega
Kawehi Kina
Van Wishingrad
Tamara Swift
Brian Dawson
Sarah Way Way
Erik Brush
Bethany Coffey
Hannah El-Silimy
Daniel Wilkie
Kauahi Perez
Liat Portner
Derek Kraft
Dain Christensen
Micah Bachig
Jennifer Sou
Ross Villiger
Leora Kava

Harrison Togia
LeeAna Acfalle
Elizabeth Monaghan
Taylor Lewis
Kellie Dinwiddie
Kala
Luke Campillo
Maxwell Breen
LaJoya Shelly
Keith Scott
David Leyva
Kirsten Moy
Patrick Nichols
Kate Feloy
Patricia Sendao
Diamond Tachera
Claire Stabile
Sarah Goodson
Alexandria Barkman
Ellen Meiser
Amber Lono
Kayla Soma
Tsutsuse
Maria Teresa Houar
Veerle van Wijk
Annastasia Fiala-Watkins
Amanda Vincent
Aida Arik
Jill Adams
Jill Adams
Helen Sung

Jesse Black
Amali Wedagedara
Justin Jansen
Hoaka Thomas
Austen Taylor
Matro
Halena Kapuni-Reynolds
Kuulei Freed
Kimberlee Stone
Ryan Jones
Shreya Yadav
Shannon Rivera
Nenita Cabanilla
Mathew Markman
Cindy Aban
Cameron Ahia
Jonathan Cohn
Kalikoaloha Martin
Olivia Conover
Steven Heisey
Scott Goldberg
Katherine Burke
Noelani Ahia
Noella Handley
Devin Barney
charu lata
Kevin Landers
Theresa Chen
Victor Gregor
Limon
Kay Hamada
Shayle Matsuda

Serena Simmons
Richard Coleman
Kerry Long
Shari Brown
Mari Martinez
Michael Hoban
Lance Ferrer
Nanea Lo
Elizabeth Lenz
Janet Graham
Flora Samis
Alex Miller
David Stuppelbeen
Jenny Jung
Timothy Zhu
Erin Netoskie
Lena Diaz
Thomas Smith
Bjarne Bartlett
Alealani Dudoit
Kaipo Matsumoto
Maxwell Bendes
Jessica Schaefer
SANG PAHK
Lucie Knor
Kamahuialani Barbett
Seth Travis
Andrian Gajigan
Soren Ruppelius
Leah Thompson
Marisa McDonald
Kevin Keefe
Yvonne Barkley

Lauren Arnold
Noam Altman-Kurosaki
Claire Lewis
Sean Forte
Sitara Palecanda
Maria Teresa Houar
Ryan Mudd
Kaitlin Hill
Eric Dilley
HANNAH MOON
Maria Costantini
Monet Meyer
Tyler Greenhill
Rebecca Goldschmidt
Holly Arthur
Thomas Iwanicki
Hazel Hotchandani
Georgia Fredeluces
Joy Enomoto
Olivia Uchima
Akea Kahikina
Yana Ya-chu Chang
Joseph Han
Trista McKenzie
Kisha Calvo
Jason Ellinwood
Valentina Alvarez

Testimony Message

Senate Committee on Ways and Means

Chair: Senator Donovan M. Dela Cruz

Vice Chair: Senator Gilbert S. C. Keith-Agaran

Conference Room 211

Friday, April 5, 2019 at 10:10 am

Thank you for the opportunity to provide testimony. I write in strong support of HB1274. HB1274, if passed, will create a new bargaining unit for graduate assistants in Hawaii. Every undergraduate student is taught and mentored by a graduate teaching assistant; graduate research assistants advance scientific frontiers and make new discoveries; and graduate administrative assistants run key facilities and labs on campus. The university relies on graduate labor to run. Graduate assistants deserve a seat at the table when decisions are made that affect their lives, those of their students, and the broader community.

Unfortunately, graduate assistants are vulnerable to capricious and arbitrary decisions and attacks from management, including sexual harassment, and discrimination, without a proper mechanism for recourse. Additionally, graduate assistants are poorly compensated, with wages that are far below a living wage and far below competitive standards of other universities. Graduate assistant compensation has neither kept up with inflation, the cost of living, or rising productivity. To remedy these issues and more, what we are asking for are our basic human rights as workers - to be able to form a legally-recognized union. It is important to emphasize that this is fundamentally about more than just compensation or grievances. This bill asks for no extra appropriations. It simply creates a pathway for graduate assistants in Hawaii to exercise their basic right to join a union - and to have a seat at the table. The bill would not even automatically create a union - instead, it would give graduate assistants the opportunity to decide if a union is the right choice for the purpose of representation, which is a right that public and private sector workers possess.

In 2016, the National Labor Relations Board reversed the decades-long ban on private university graduate unions at places such as the University of Chicago, Harvard, and Yale, declaring that graduate assistants are workers that deserve the right to unionize. There are currently dozens of graduate unions across the country at public and private institutions, in states such as California, Oregon, Washington, New York, Illinois, Montana, Massachusetts, Iowa, and many more, including many of our peer and benchmark institutions. Graduate assistant unions have existed for 50 years, and all scholarly research has shown that unionized graduate assistants report higher levels of personal/professional support and higher pay that improves educational outcomes, and that faculty report that unionization does not inhibit their ability to advise, instruct, or mentor.

Hawaii has led the way in breaking ground for labor unions. For the cutting-edge research and instruction graduate assistants do, the ability to collectively bargain and have a seat at the table is essential and long overdue. I urge you to pass HB1274.