



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

Thursday, February 10, 2022
Via Videoconference, 2:00 p.m.
Conference Room 325

To: The Honorable Mark M. Nakashima, Chair
The Honorable Scot Z. Matayoshi, Vice Chair
Members of the House Committee on Judiciary and Hawaiian Affairs

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 1775, H.D. 1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports H.B. No. 1775, H.D. 1, which amends H.R.S. Chapter 368D, by adding a purpose section in Chapter 368D that clarifies the scope of the state law corollary to the Federal Title IX law, and amends § 368D-1 to specify additional forms of discrimination and other prohibited conduct under Chapter 368D. In Section 1 of the bill, the Legislature makes a finding that, “[p]ursuant to the exclusive jurisdiction of the legislature to identify laws of statewide concern, granted under article X, section 6, of the Hawaii State Constitution, the legislature ... finds that the prohibition of discrimination on the basis of sex, including gender

identity or expression, or sexual orientation, is a matter of statewide concern.

The bill also adds new sections to Chapter 368D that require covered entities (entities that have an educational program or activity that receives state financial assistance, in any amount, for any purpose) to adopt written policies and undertake specified enforcement action, and for state educational programs or activities (UH, DOE, and public charter schools) to submit annual reports to the Legislature. The bill has been amended to appropriate funds to the State Charter School Commission to hire a Title IX specialist,

Act 110, L 2018, established a state corollary to Title IX by adding a new chapter to Title 20 of the Hawai'i Revised Statutes, now HRS chapter 368D, prohibiting discrimination based on sex, including gender identity or expression, or sexual orientation in any state educational program and activity or educational program or activity that receives state financial assistance.

H.B. No. 1775 provides a framework for enforcement of the state Title IX corollary.

H.B. No. 1775 provides students protection against sex discrimination, including sexual harassment and sexual assault, similar to the protections provided for employees under federal and state fair employment laws, Title VII and H.R.S. Chapter 378, Part I, respectively. In doing so, it provides needed protections for the most vulnerable to harm, for the purpose of providing a safe learning environment free of sex discrimination, that provides all with an equal opportunity to succeed without regard to sex, including gender identity or expression, or sexual orientation.

H.B. No. 1775 provides organizations and associations standing to file complaints alleging violations of Chapter 368D with covered entities. It also provides that nothing in Chapter 368D precludes a student participating in a covered educational program or activity from filing a civil action in court. The HCRC suggests that the statute should also provide for the award of attorneys fees and costs to a prevailing complainant.

On March 8, 2021, President Biden signed an Executive Order expressing a policy

commitment that all students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, which encompasses sexual violence, and including discrimination on the basis of sexual orientation or gender identity, and ordering a review of all regulations, orders, guidance documents, policies, and agency actions that are inconsistent with that commitment. To that effect, the USDOE is expected to release proposed amended regulations in 2022 to reverse Trump administration USDOE regulations that gutted such protections.

Shifting federal interpretation and enforcement of Title IX protections against sex discrimination, with about-face turns in conflicting rules, guidance, and executive actions and orders, serve to highlight the need for strong state law and the legislature's wisdom in enacting the state law corollary to Title IX. Here, as a historical theme in Hawai'i civil rights lawmaking, federal law is a "floor" beneath which state law protections against discrimination cannot drop, rather than a "ceiling" above which state law protections cannot rise. California Federal Sav. and Loan Ass'n v. Guerra, 479 US 272, 290-292 (1987).

The HCRC supports H.B. No. 1775 H.D. 1.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
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)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 1775, H.D. 1

February 10, 2022
2:00 p.m.
Room 325 and Videoconference

RELATING TO CIVIL RIGHTS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1775, H.D. 1, adds four new sections to Chapter 368D, HRS, to:

- 1) specify additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; 2) require entities with State education programs or activities, or that receive State funding for educational programs or activities, to adopt written policies and undertake other specified enforcement actions no later than January 1, 2023;
- 3) require annual reports to the Legislature; and 4) appropriate an unspecified amount of general funds for FY 23 to hire 1.00 full-time equivalent position to ensure compliance by public charter schools with Title IX of the federal Education Amendments of 1972.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/10/2022

Time: 02:00 PM

Location: 325 Via Videoconference

Committee: House Judiciary & Hawaiian
Affairs

Department: Education

Person Testifying: Keith T. Hayashi, Interim Superintendent of Education

Title of Bill: HB 1775, HD1 RELATING TO CIVIL RIGHTS.

Purpose of Bill: Specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS. Requires entities with state education programs or activities, or that receive state funding for educational programs or activities, to adopt written policies and undertake other specified enforcement actions no later than 1/1/2023. Requires annual reports to legislature. Appropriates funds. Effective 7/1/2050. (HD1)

Department's Position:

The Hawaii State Department of Education (Department) supports the intent of HB 1775, HD1, which specifies additional forms of sex discrimination and other prohibited conduct and requires the Department to adopt written policies, undertake other specified enforcement actions, and requires annual reports the Legislature. However, the Department respectfully offers comments on the proposed bill.

The Department is deeply committed to Title IX of the Educational Amendments of 1972 (Title IX) and the tenets that it upholds. The Department currently has in place interim procedures that reflect the 2020 revisions to the federal Title IX requirements to address reports and complaints of sexual harassment. The Department recognizes that the 2020 revisions to the federal Title IX regulations have raised the criteria for what types of conduct would constitute sexual harassment under Title IX and would be addressed per the due process steps indicated in the 2020 revisions.

To ensure that reports of sexually harassing conduct that does not fall within the federal

Title IX regulations are appropriately addressed, the Department has utilized other applicable rules and policies. Specifically, Chapter 19 of Title 8 of the Hawaii Administrative Rules (Chapter 19) is used primarily for situations where both the complainant and the respondent are students; Chapter 89 of Title 8 of the Hawaii Administrative Rules (Chapter 89) and Board of Education Policy #305-10 (BOE Policy #305-10) is utilized for situations where the complainant is a student, and the respondent is an employee, and Board of Education Policy #900-1 (BOE Policy #900-1) is utilized for situations where both the complainant and the respondent are employees.

The Department understands that this bill proposes that covered entities adopt a written policy to address complaints covered under the proposed bill, including definitions, as necessary to interpret and apply the policy. The definitions presented in this bill vary from the definitions included in Chapter 19 and Chapter 89. Therefore, interim procedures would need to be drafted and created while Chapter 19 and Chapter 89 are revised to reflect the proposed definitions.

The Department supports the intent of reporting requirements covered under the proposed bill to the legislature. However, it currently handles data relating to an employee complainant and a student respondent as misconduct and disciplinary issue against the student respondent under Chapter 19. Therefore, such incidents are currently inputted for the respondent only. This proposed data requirement would necessitate changes to be made in the Chapter 19 forms and the Department's Student Information System.

The Department appreciates the Legislature's efforts to ensure that all reports of sexual harassment are appropriately addressed and looks forward to working with the Legislature to achieve this goal.

Thank you for this opportunity to provide testimony on this measure.

DAVID Y. IGE
GOVERNOR



JOHN S.S. KIM
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB1775 HD1 Relating to Civil Rights
DATE: February 10, 2022
TIME: 2:00 P.M.
COMMITTEE: Committee on Judiciary & Hawaiian Affairs
ROOM: Conference Room 309 & Videoconference
FROM: Yvonne Lau, Interim Executive Director
State Public Charter School Commission

Chair Nakashima, Vice Chair Matayoshi, and members of the Committee:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in **SUPPORT of HB 1775** which specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS. Requires covered entities to adopt written policies and undertake other specified enforcement actions no later than January 1, 2023, and requires annual reports to Legislature.

The Commission respectfully requests that the committee provide funding for a Title IX position as had been provided to the Hawaii Department of Education in past legislative sessions in order to meet the compliance, training and reporting requirements of this bill. Our public charter schools currently do not have access to the Department of Education’s Civil Rights Compliance Branch for training, compliance monitoring or investigations into such matters. Each public charter school is expected to meet these requirements individually and often rely on the advice of their Deputy Attorney Generals for assistance.

Due to the way funding is distributed between the Hawaii Department of Education and our public charter schools this requirement along with any additional mandated training or compliance monitoring is added to each public charter school’s long list of requirements but are often financially difficult to meet. The ability of the Department of Education to centralize these types of requirements cannot be found in the public charter school model. The Commission asks for consideration of these operational and capacity issues to be address for our public charter schools so that the intent of this bill can be met.

Title IX is an extremely important law that must be followed to ensure equity and access to girls and women in our public charter schools, however, the funding to ensure this has not been included for our public charter schools.

The Commission is available to work with this committee, the DOE, the Department of Budget and Finance, and public charter schools in moving this legislation forward.

Thank you for the opportunity to provide this testimony.

LATE

HB-1775-HD-1

Submitted on: 2/10/2022 9:25:17 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Keith Hayashi	Hawaii Department of Education	Comments	Yes

Comments:

Comments

HB-1775-HD-1

Submitted on: 2/7/2022 3:55:49 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Golojuch Jr	Stonewall Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The Stonewall Caucus of the Democratic Party of Hawai'i (formerly the LGBT Caucus) fully supports HB 1775 HD 1.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH



To: Hawaii State House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: February 10, 2022 2:00PM
Re: Testimony in STRONG SUPPORT of HB1775 HD1

Dear Chair Nakashima, Vice Chair Matayoshi, and the Members of Committee,

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of HB1775 HD1 which specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS, prohibited discrimination in state educational programs and activities. HB1775 HD1 would also require schools and educational programs receiving state funds to adopt written policies and undertake other specified enforcement actions; require annual reporting to the legislature on the number and types of Title IX cases and other relevant information.

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Since the passage of this landmark civil rights law, opponents have sought to weaken it. In 2017, the U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX requires schools to prevent and address sexual harassment and violence and to protect transgender students. **In 2018, Hawaii passed Act 110 which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, or gender expression, in any state educational program or activity. We are especially proud that Hawaii was the first state to do so.** Then, in May 2020, the Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX.**

According to AAUW's research "Crossing the Line":

- o Two out of three college students and nearly half of the students in grades 7-12 experience sexual harassment
- o More than 11% of all students experience sexual assault but only 20% of female students report to the authorities.



According to the 2019 UH climate survey,

- o 12.7% of students experienced sexual harassment
- o 10.6% experienced stalking
- o 21.3% experienced dating or domestic violence
- o and 7.2% experienced non-consensual sexual contact.

These numbers unfortunately represent an increase over the responses from the 2017 UH climate survey.

According to the 2019 CDC Youth Risk Behavior Survey,

- o 13.1% of high school students were electronically bullied
- o 17% were bullied on school property
- o 10.8% experienced non-consensual sexual contact,
- o and 8.6% experienced physical dating violence.

We need Hawaii State Corollary providing Title IX enforcement for all students and protections for student survivors of harassment and violence.

The American Association of University Women (AAUW) of Hawaii is an all volunteer, statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward Oahu. UH Hilo, UH Manoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.

Please pass this important measure to ensure "no person in the state of Hawaii shall, based on sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving state financial assistance", as our late congresswoman Patsy T Mink intended. Mahalo.



Sincerely,

A handwritten signature in blue ink, appearing to be "Y. Overly".

Younghee Overly
Public Policy Chair, AAUW of Hawaii
publicpolicy-hi@aauw.net



Hawaii Women's Coalition

To: Hawaii State House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: February 10, 2022 2:00PM
Re: Testimony in STRONG SUPPORT of HB1775 HD1

Dear Chair Nakashima, Vice Chair Matayoshi, and the Members of Committee,

Members of Hawaii Women's Coalition thank you for this opportunity to testify in strong support of HB1775 HD1 which would specify additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; require schools to adopt written policies and undertake enforcement actions; and require schools to submit annual reports on Title IX cases.

In May 2020, the federal Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX.**

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Please pass this important measure to ensure Title IX protects all students in Hawaii from discrimination, harassment and assault based on their sex as our late congressman Patsy T Mink intended.

The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

Thank you and with Aloha,

Members of Hawaii Women's Coalition



To: Hawaii State House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: February 10, 2022 2:00PM
Re: Testimony in STRONG SUPPORT of HB1775 HD1

Dear Chair Nakashima, Vice Chair Matayoshi, and the Members of Committee,

Members of Hawaii State Democratic Women's Caucus thank you for this opportunity to testify in strong support of HB1775 HD1 which would specify additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; require schools to adopt written policies and undertake enforcement actions; and require schools to submit annual reports on Title IX cases.

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Since the passage of this landmark civil rights law, opponents have sought to weaken it. In 2017, the U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX requires schools to prevent and address sexual harassment and violence and to protect transgender students. In 2018, we were so proud that Hawaii passed Act 110 which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, or gender expression, in any state educational program or activity. Hawaii was the first state to do so.

Then, in May 2020, the U.S. Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii also needs to codify the enforcement of Title IX.**

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls.

Please pass this important measure to ensure Title IX protects all students in Hawaii from discrimination, harassment and assault based on their sex as our late congressman Patsy T Mink intended. Mahalo.

Sincerely,

Members of Hawaii State Democratic Women's Caucus



February 7, 2022

Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

Re: H.B. 1775, HD 1 Relating to Civil Rights

Hearing: Thursday, February 10, 2022, 2:00 PM, Via Videoconference

Dear Chair Nakashima and Members of the Committee on Judiciary & Hawaiian Affairs:

Hawaii Women Lawyers submits testimony in **strong support of H.B. 1775, HD 1**, which specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, Hawaii Revised Statutes, and requires entities with state education programs or activities, or that receive state funding for educational programs or activities, to adopt written policies and undertake other certain enforcement actions by no later than January 1, 2023.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

HWL is proud to be a part of the legacy of the Patsy T. Mink Equal Opportunity in Education Act, otherwise known as Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) or more commonly, "Title IX". In 2018, HWL supported the passage of Act 110, which created a state corollary to Title IX by prohibiting discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity, or in any educational program or activity that receives state financial assistance. In 2021, HWL also supported the Senate Resolution relating to convening a task force to address implementation of the state law corollary to Title IX in light of recent changes to Federal Title IX regulations under the Trump administration.

H.B. 1775, HD 1 appears to be the culmination of those efforts in providing a critical framework towards actually implementing the state corollary to Title IX, as well as taking steps to properly address and meet the needs of victims of unlawful sex-based discrimination. It is well-documented that sexual misconduct creates an unsafe and unwelcoming educational environment, which in turn interferes with a student's ability to learn, as well as severely impacting their mental and physical well-being. H.B. 1775, HD 1 reflects a legitimate and viable effort to combat those issues.

For the above reasons, we strongly support H.B. 1775, HD 1 and respectfully request that the Committee pass this measure.

Thank you for the opportunity to testify in strong support of this measure.

HB-1775-HD-1

Submitted on: 2/8/2022 4:28:10 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Doris Segal Matsunaga	Save Medicaid Hawaii	Support	No

Comments:

Save Medicaid Hawaii supports HB1775



To: Representative Nakashima, Chair
Representative Matayoshi, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

Re: **HB 1775 HD1, relating to civil rights**
2:00 PM, February 10, 2022

Chair Nakashima, Vice Chair Matayoshi, and committee members,

On behalf of HCAN Speaks!, thank you for the opportunity to **testify in support of House Bill 1775 HD1, relating to civil rights.**

While we celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act, also known as Title IX, it is appropriate that we move forward to adopt and implement the activities in this bill to uphold the intention of that landmark legislation.

Specifically, this bill:

- Specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, Hawaii Revised Statutes, prohibited discrimination in state educational programs and activities
- Requires educational institutions and programs receiving state fund to adopt written policies and undertake other specified enforcement actions no later than 1/1/2023
- Require annual reporting to the legislature on the number and types of Title IX cases received by the department of education, public charter schools, and the University of Hawaii and other relevant information

Hawai'i should ensure a student has the ability to learn and have access to educational programs without fear of violence or bias. For many students, school is a safe place. Let's make it a safe place for all students.

For these reasons, HCAN Speaks! respectfully requests the Committee to support this measure.

Thank you,

Kathleen Algire
Director of Early Learning and Health Policy



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary and Hawaiian Affairs
February 10, 2022 at 2:00 p.m.

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

HB 1775 HD1 – RELATING TO CIVIL RIGHTS

Chair Nakashima, Vice Chair Matayoshi, and members of the committee:

Thank you for the opportunity to present testimony on HB 1775 HD1 – Relating to Civil Rights. The University of Hawai'i ("University") supports the intent of this bill and provides the following comments.

HB 1775 HD1 specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; requires covered entities to adopt written policies and undertake other specified enforcement actions no later than January 1, 2023; and requires annual reports to the Legislature.

The University appreciates its long-standing, collaborative relationship with the Women's Legislative Caucus to uphold the spirit and intent of Title IX and to create an educational environment that enhances safety and advances gender equity. The University also shares the Legislature's desire to implement policies and procedures that prevent and address sex discrimination and gender-based violence. To that end, the collegial partnership with the Caucus has positively impacted the University's policy development and programmatic efforts over the years.

As Title IX celebrates its 50th year of existence in June 2022, the framework and scope of the landmark federal legislation continues to evolve and expand. We have learned that educational institutions must be nimble yet robust in their own organizational infrastructure and programmatic goals in addressing sex discrimination and sexual misconduct. The swiftly-changing landscape necessitates vigilant attention to these critical issues as they impact policy, procedures and programmatic initiatives. Accordingly, the University appreciates the bill's intent to avoid a conflict of laws by providing that, "If any conflict arises between applicable mandatory federal requirements under Title IX (20 U.S.C. 1681 et seq.) and any state law requirements, the federal requirements shall prevail."

Given the potential for the landscape to change over time in this area, however, we believe a better long-term strategy is for educational institutions to be given the flexibility to continuously update their policies and procedures, while remaining compliant with applicable laws and regulations, through engagement with stakeholders and community members. To this end, the University believes legislation should focus on recognizing the

objectives of written policies adopted by institutions in this area, while permitting them to develop the specific details of policies and procedures as part of their internal governance structure. This will allow the University to further refine its policies and procedures over time, to align with the best practices of today and tomorrow.

While the University shares the Legislature's desire to have public data available related to the University's Title IX efforts, it respectfully suggests its current work to present robust and transparent data is accomplished through the University's Annual Report on Campus Safety and Accountability submitted to the Legislature in accordance with HRS section 304A-120. This report incorporates the results of the University's Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence, which measures students' attitudes, behaviors and standards in the context of preventing and addressing sexual harassment and gender-based violence. This comprehensive survey is conducted biennially systemwide and administered through a third-party vendor in accordance with best practices. More specifically, the University survey gathered information from students about:

- The overall campus environment related to sexual harassment and gender-based violence.
- How well the University responds to and addresses their concerns.
- Awareness of resource and reporting options for those experiencing sexual violence, sexual harassment, stalking, and interpersonal violence (domestic and dating violence).
- Prevalence (e.g., how widespread) and incidence (e.g., how often) of sexual violence, sexual harassment, stalking, and interpersonal violence on campus.

The results of the recurring survey which are regularly reported to the Legislature and the general public provide transparency as to the prevalence and perception of sexual harassment and gender-based violence and continue to inform the University's action plans. Instead of additional reporting requirements, the University's resources may be better served by continuing to work on the implementation of campus-based action plans, consistent with the Climate Survey data and towards preventing gender-based violence and sexual harassment. At a minimum, the University is concerned that requiring additional data as described in HB 1775 HD1 may have broader privacy implications for the individuals involved in the University's internal investigatory process. This is especially true for smaller campuses, where lower numbers of cases could lead to privacy issues even in aggregate reporting.

The University is appreciative of the long-standing support of the Legislature and the Women's Legislative Caucus and its generous appropriation of funds to establish the University's first-ever systemwide office to build infrastructure and improve institutional responses to Title IX-related allegations. To meet the continued demand for expertise in the ever-expanding legal arena of Title IX, the University respectfully requests three (3.0) position counts for its Equity Assurance Office (EAO). These position counts would restore the three positions that were abolished pursuant to Act 9, Session Laws of Hawai'i 2020, as part of a larger, unrelated initiative to abolish vacant positions at the University. The EAO plays a critical role in ensuring competency and consistency systemwide in the

implementation of all state and federal laws related to sex discrimination. At a high level, these positions would provide support for our ten-campus system as new rules are promulgated, necessitating new infrastructure and policy revisions. These positions would also provide leadership in the areas of data collection/reporting, prevention and risk reduction.

Thank you for the opportunity to testify on HB 1775 HD1. The University looks forward to continuing our work with the Legislature and the Women's Legislative Caucus to further refine the provisions of the bill, in support of a safe and nondiscriminatory campus environment.

Thank you for the opportunity to testify on HB 1775 HD1.

HB-1775-HD-1

Submitted on: 2/8/2022 8:29:39 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rosemarie Muller	Individual	Support	No

Comments:

My name is Rosemarie Muller and I live in Keaau, Hawaii. This bill HB1775 is so important because all students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking in our schools and universities. Please Pass this measure.

Thank you

HB-1775-HD-1

Submitted on: 2/8/2022 9:37:45 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Springer Kaye	Individual	Support	No

Comments:

I support this bill. By requiring a coordinator, an annual report, and by clearly defining the forms of sexual discrimination, assault, harassment, and exploitation encountered by individuals in educational settings, the state will be able to understand the scope of the problem and make measureable gains in protecting students and other members of the educational community from sex-based discrimination.

HB-1775-HD-1

Submitted on: 2/8/2022 11:03:23 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Mark Nakashima, Vice Chair Scot Matayoshi, and the Committee on Judiciary and Hawaiian Affairs,

My name is Caroline Kunitake and I am a resident on Honolulu, HI. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking in our schools and universities.

During graduate school at Loma Linda University in California, I was stalked by a mentally ill gentleman for over five months. He left gifts at the dorm front desk. He constantly called the phone in my room and I requested to have my phone number changed. He sent love letters stating that "God destined us to be together." Although I had issued a temporary restraining order against him, he didn't understand what the temporary restraining order was for and continued to visit the dorm where I resided. You can't stop a crazy person from stalking you because they aren't afraid of guards, police officers, prison or the law.

It was an eye opening experience. I found it challenging to maintain a high GPA while being physically safe on campus. I needed to adjust my routine (change up my schedule so that he couldn't predict when I would be walking back to the dorm), make sure that all the routes that I took on foot had other people present and that I constantly carried a charged cell phone so that I could contact someone if I was in trouble. I was relieved emotionally, physically and mentally when the stalking stopped. I'm so grateful for the friends, instructors and community leaders who helped me while I was his target. I was away from home and I didn't have family members for support. My graduate program was only a year long, so I hustled as much as I could to make friends and find allies to act as my temporary family. I was incredibly lucky that I was not sexually or physically assaulted and I graduated with honors from the graduate program.

Later I learned that my stalker had sexually harassed and stalked other women. I wasn't his first target, but I was the only target that had enough courage to report him to the police so that he would have some sort of police records. I'm sure that the majority of the sexual assaults, sexual harassments and stalkings go unreported on campus because it takes a lot of time and energy away from study. Also there's a lot of fear, shame and potential retribution if the aggressor has a position of authority and/or significant resources to fight a legal battle.

While attending college, I did have a roommate who was sexually assaulted in our dorm room at Frear Hall at the University of Hawaii at Manoa. The experience was traumatizing for her. After

the sexual assault, I would find her in our room banging her head against the wall, struggling with post traumatic stress disorder and deciding whether or not to continue with school. She was an out of state student and longed to be near her family. By the end of the semester, she decided to attend school in her home state. Before she was sexually assaulted, she was a very carefree. After the sexual assault, her personality and perspective changed to adapt to her new reality as a sexual assault survivor. I have no doubt that she was haunted by the violent attack.

Please support HB1775. We need to improve the Hawaii State Corollary providing Title IX enforcement and protections for student survivors of sexual harassment and assault. One day, these laws will be protecting your spouse, children, cousins and friends.

Mahalo,

Caroline Kunitake

Hearing Date: February 10, 2022
2:00 pm, Room, 325 – Via Videoconference

To: House Committee on Judiciary and Hawaiian Affairs
Chair, Representative Mark M. Nakashima
Vice Chair, Representative Scot Z. Matayoshii

From: Jean Evans, MPH (Individual, jevans9999@yahoo.com,
808-728-1152, 99-1669 Hoapono Pl., Aiea, HI 96701)

Re: TESTIMONY IN SUPPORT OF HB 1775, HD1 Relating to Civil Rights

My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies and received both my baccalaureate and graduate degrees from the University of Hawaii at Manoa.

I am in strong support of HB 1775, HD1 which will codify the protections for student survivors of sexual harassment and assault and the enforcement of all aspects of Title IX.

The previous federal administration's decision to reverse the federal government's active stance on upholding the investigation of campus sex assaults and harassment was very troublesome. Discrimination based on sexual orientation and gender identity can lead to overt bullying, and ultimately unequal educational opportunities. The college experience is a time where students expand their knowledge and prepare for careers. It can also be a stressful time especially if young women and transgender students are fearful. While the current administration has made strides to stand by the Title IX requirements, there is not guarantee that future administrations will do so.

I believe this bill will help assure that Hawaii continues to remain a leader in civil rights and follow in the footsteps of Patsy T. Mink in this 50th anniversary year of the passing of Title IX. It is imperative that Hawaii puts into law the protections of Title IX.

Mahalo for allowing me to submit my testimony today.

HB-1775-HD-1

Submitted on: 2/8/2022 1:00:06 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Janet Morse	Individual	Support	No

Comments:

Bill Number - HB 1775, HD1

Committee: House Committee on Judiciary and Hawaiian Affairs

Chair: Rep. Mark M. Nakashima

Vice Chair: Rep. Scot Z. Matayoshi

Hearing Date, Time, Room: Thursday, February 10, 2022, 2:00 pm, Rm. 325 via Videoconference

Dear Representatives Mark M. Nakashima, Chair, Scot Z Matayoshi, Vice Chair and members of the committee:

Rules adopted in 2020 by the Department of Education significantly diminished the rights and protections for students and employees under Title IX.

One rule limits the application of federal Title IX policies to persons in the United States. This means that students participating in international study abroad programs are no longer protected under federal Title IX rules.

This rule struck me on a personal level because my daughter, a Kailua High School graduate, spent time abroad in a school sponsored program during her sophomore year in college. She was not the victim of a sexual attack, though she did have a somewhat scary experience of a tour guide grabbing her from behind in imitation of Jack the Ripper.

I support HB1775 HD1 because I think that students like my daughter should have the protections of Title IX while participating in covered education activities at home or abroad.

I support HB 1775 HD1 because I believe that all students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

Mahalo for hearing this important bill and please pass it.

Janet Morse, Kailua

HB-1775-HD-1

Submitted on: 2/8/2022 8:32:42 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lisa Humes-Schulz	Individual	Support	No

Comments:

Planned Parenthood Alliance Advocates supports HB 1775 to ensure compliance with Title IX and provide students with safe campuses and non-discriminatory treatment.

HB-1775-HD-1

Submitted on: 2/9/2022 9:14:07 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ronja Steinbach	Individual	Support	No

Comments:

My name is Ronja Steinbach and I am a student at the University of Hawai‘i at Mānoa. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

I know too many friends who have not been adequately protected and I myself have experienced Title IX-qualifying situations without receiving the support that I needed. It is alarming that the number of reported cases of sexual harassment have increased, according to the campus climate survey, but sadly I am not surprised. The changes to Title IX during the Trump administration also severely weakened this important Law. Therefore, I am in favor of HB1775 because it is a first step in addressing some of the systemic difficulties that we are facing.

Mahalo for hearing this important bill and please pass it,

Ronja

HB-1775-HD-1

Submitted on: 2/9/2022 10:49:19 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sharde Freitas	Individual	Support	No

Comments:

Support

HB-1775-HD-1

Submitted on: 2/9/2022 11:39:50 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Elizabeth Hansen	Individual	Support	No

Comments:

As a registered voter in Hakalau HI 96710, I am requesting that you support this bill, HB1775.

All students deserve protection from gener-based discrimination, dating violence, domestic violence, stalking in our schools and universities. Mahalo.

Elizabeth Hansen

Hakalau HI 96710

HB-1775-HD-1

Submitted on: 2/9/2022 11:54:40 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rodger Hansen	Individual	Support	No

Comments:

I am a registered voter and I support this bill.

Mahalo

Rodger Hansen

Hakalau HI 96710

HB-1775-HD-1

Submitted on: 2/9/2022 3:24:25 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Anna Ezzy	Individual	Support	No

Comments:

Aloha, my name is Anna Ezzy, I am a resident of Hā‘iku, Maui and a student. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

In Hawai‘i, according to the 2019 UH climate survey, 12.7% of students experienced sexual harassment and 21.3% experienced dating or domestic violence. These numbers represent an increase from the 2017 UH climate survey and pose a serious threat to our haumana and next generation of leaders. This bill will allow us to catch key data points on how the Title IX system is currently functioning by requiring annual reporting on the number and types of cases.

2022 is the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act - also known as Title IX - co-written by our own leader, Patsy Mink. While great strides have been made for women and girls for equal access in education, the lack of enforcement of Title IX maintains widespread gender-based harassment, sexual assault, dating violence, domestic violence, and stalking in our public schools and universities. Passing this bill will move our state closer to fully realizing Patsy Mink’s legacy.

Mahalo for hearing this important bill and please pass it.

Signed,



Anna Ezzy

LATE

HB-1775-HD-1

Submitted on: 2/9/2022 6:55:16 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi and members,

I am in strong support of this measure needed to safeguard the Women and Girls of Hawai`i in our educational system. During the last presidential administration it became clear that States need to safeguard the protections put in place by the Obama administration since those rights have been so easily eroded by the Secretary of Education and the last president.

Please pass this bill out of committee,

Mahalo, Ann S. Freed

Life-time Feminist in Hawai`i