



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary
February 28, 2017 at 2:00 p.m.

by

Risa Dickson, Vice President for Academic Planning and Policy
Garret Yoshimi, Vice President for Information Technology
Carrie Okinaga, Vice President for Legal Affairs
University of Hawai'i System

HB 814 HD1 – RELATING TO THE UNIFORM EMPLOYEE AND STUDENT ONLINE PRIVACY PROTECTION ACT

Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

Thank you for the opportunity to present testimony regarding HB 814 HD1 – Relating to the Uniform Employee and Student Online Privacy Protection Act.

We support the intent of this bill in protecting employee and student privacy. That said, this uniform act was just newly approved in 2016 by the National Conference of Commissioners on Uniform State Laws, has not yet been adopted by any state to our knowledge, and needs to be amended to avoid unintended consequences. In short, the uniform act appears to contemplate a much more controlled and closed telecommunications and information technology system, i.e., for private institutions and employers, than the open architecture system afforded to University of Hawai'i employees and students. The following amendments are requested in this regard:

(1) Page 4, lines 4-5 in the definition of “Protected personal online account” should be revised to read:

(A) The employer or educational institution supplies, ~~or~~ pays for in full, or issues login information under its domain name;

The University owns, manages and controls the hawaii.edu domain name, but it is arguably Google that supplies the platform. This is a clarification, not an expansion, of the act.

(2) Page 5 line 10, and Page 9 line 17 should be revised to read:

(1) Require, or ~~coerce or request~~ a student to:

The purpose of the act is to prevent coercion of employees and students. As written, this bill would subject the University (and all employers and educational institutions) to penalties and civil liability for an innocent “request” for login information, no matter the intent. A student or employee is leaving school/work for an extended vacation or emergency medical situation, and a caring adviser or supervisor instinctively requests

login information to assist the person with monitoring email or coursework assignments, which is expressly prohibited under this bill and would subject the University to liability.

(3) Effective date: Currently, there is a July 1, 2050 effective date. If enacted, the University will need time to effect policies and training to ensure compliance with this act. We would respectfully request an effective date of 2020 to afford time for necessary consultations and implementation of said policies and training.

Based on the foregoing, the University supports HB 814 HD1 with amendment.