



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Higher Education and the Arts
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HB 2772 HD1 – RELATING TO THE UNIVERSITY OF HAWAII

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

Thank you for the opportunity to present testimony on HB 2772 HD1 – Relating to the University of Hawaii. The University of Hawai'i ("University") appreciates the intent of the measure in addressing critical issues relating to sex discrimination and gender violence at the University. However, the University is already engaged in implementing many of the initiatives set forth in HB 2772 HD1. Furthermore, the issues raised in this draft have significant impact on the University student body and employee base. As such, we believe these matters are more appropriately developed and vetted through the University community to ensure alignment with the campus culture, and not prescribed through statutory mandate. For these reasons, we believe this measure is unnecessary.

HB 2772 HD1 statutorily mandates specific requirements, timelines and penalties associated with Title IX, VAWA and sexual harassment training. The University, through the Office of Institutional Equity, is in the process of planning, developing, coordinating, and implementing curricula for Title IX & VAWA training for all employees at each of the 10 campuses, beginning with the UH Community Colleges.

A large scale training covering a myriad of Title IX and VAWA topics was facilitated by OIE for all ten campuses from October 26-30, 2015. This training included Title IX Coordinator Certification and Civil Rights Investigator Certification from Daniel Swinton, Managing Partner of the National Center for Higher Education Risk Management (NCHERM) Group, LLC, and Associate Executive Director of the Association of Title IX Administrators (ATIXA). This training also included training on domestic and dating violence issues. Mindful that many initiatives require a top-down approach, this five day training was attended by over one hundred employees, including key executives from the campuses. Similar all campus trainings are scheduled in May and August 2016, to supplement the initial certifications with more advanced curricula, as well as address other issue areas. These planned trainings will also include national experts from NCHERM/ATIXA. Following the all-campus, week-long training held in October 2015, individual campuses have been receiving additional live trainings. To date, seven campuses have been trained or have confirmed dates for training. The training curricula has been thoughtfully developed by OIE in consultation with the Title IX teams and vetted and mandated by the Chancellors of each of the respective campuses. Executives, staff, and faculty are required to attend these sessions and the targeted completion of this training initiative is May 31, 2016. To supplement live trainings, the

University is also in the process of securing a vendor in anticipation of current online training contracts expiring at the end of May 2016. Online trainings will account for different learning modalities, as well as the differing demographics on each of the campuses.

Unlike existing practice at the University, HB 2772 HD 1 adds a punitive element that will prohibit any student who does not complete training from registering for classes or graduating. This is a significant change from current procedure and, therefore, will require a more thoughtful development and implementation plan. Furthermore, the University is not in a position to immediately enforce this metric. Resources will be needed to upgrade the student information system to track and place holds in the system for students who do not meet the training requirements because this functionality does not currently exist.

With regard to HB 2772 HD1's definition of Responsible Employee, "Responsible Employee" is a legal status set forth in Title IX guidance that should be determined after thoughtful consideration of all the issues and ramifications. Generally speaking, the University supports designating faculty as "Responsible Employees" because faculty members are often trusted by their students, and students could perceive any faculty member as having the authority to help with the University's response.

HB 2772 HD1's mandate for confidential advocates should only be adopted after thoughtful consideration. Confidential advocates are one of the many possible confidential resources, serving a valuable role in ensuring victims are able to consider their rights and resources without feeling obligated to place the University on notice of a specific allegation, thereby supporting victim autonomy. To that end, the University supports the designation of confidential advocates on each campus. However, such designation must be done carefully and with appropriate resource considerations. The University is mindful that quickly designating additional resources without strategically planning to address, among other issues, the quality of the direct services delivered is not in the best interest of students. Any designation should be accompanied by a comprehensive resource mapping to ensure the newly designated resource is able to fully articulate their role in the University system. Further, the confidential advocates should have nuanced and comprehensive training to ensure they are able to support victims in a trauma informed manner, and are fully equipped to discuss the many resources available both on and off campus. Accordingly, the University is concerned that a requirement to designate more confidential advocates without providing for comprehensive training would be difficult for the University to implement absent additional appropriations.

With regard to HB 2772 HD1's mandate of MOUs with community organizations, the University appreciates the community organizations specialized in this area, and is in the process of establishing MOUs with various organizations to assist with efficient cross referrals between community organizations and the University. However, such arrangements must be incorporated strategically into a larger program. For example, it may be more appropriate for University confidential advocacy services to be provided by existing community organizations that already specialized in the areas of victim support and trauma counseling. To this end, the University has been establishing strategic relationships with key community stakeholders, thereby making the need to mandate such relationships in this measure unnecessary.

Additionally, the Affirmative Consent Task Force is also addressing and deliberating on the best implementation strategy for advocacy positions on campus. To ensure resources are efficiently allocated, the University respectfully requests that this active dialogue be allowed to complete its full course. The University, in collaboration with community experts, is in the best position to determine its needs regarding confidential resources as a whole.

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

HB 2772 HD1 requires the University to start conducting a campus climate survey by December 2016. The University recognizes that campus climate surveys are useful for collecting meaningful data. Surveys are also useful for increasing dialogue on campuses and helping to increase the comfort levels of victims of sex assault and other forms of sex discrimination and gender based violence in reporting issues to the University and local law enforcement.¹ The University completed "Sexual/Relationship Violence" surveys in 2003 and 2010² and has been planning a multi-phase system wide student campus climate survey to be administered no later than December 2016. Accordingly, the University believes this measure is unnecessary.

The application of amnesty policies have significant and wide-ranging effects that are not limited to Title IX reporting. While it is important to consider alcohol's role in the perpetration of sexual violence, it is essential that illegal substances and other amnesty concerns be addressed together. This will ensure that the information is presented in a holistic and easily understood manner. Accordingly, the University believes this issue is better addressed through the University's internal procedures and not mandated through this bill.

In conclusion, the University has been engaged in the activities described in HB 2772 HD1. Through strengthened community partnerships and the University's continued participation in the legislatively created Act 222 Task Force, considerable progress has been made. Accordingly, the University respectfully submits that it does not believe this bill is necessary at this time, and that the Act 222 Task Force is the appropriate vehicle for vetting these measures, along with other planned University initiatives.

¹ See <https://www.notalone.gov/assets/ovw-climate-survey.pdf>.

² See UH Commission on the Status of Women website: <http://www.hawaii.edu/offices/op/csw/violence.html>.