



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Labor and Public Employment  
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By  
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### HCR 48/HR 16 – REQUESTING THE GRADUATE ASSISTANTS OF THE UNIVERSITY OF HAWAII SYSTEM, WITH THE ASSISTANCE OF THE HAWAII LABOR RELATIONS BOARD, TO CONDUCT A CONFIDENTIAL VOTE ON WHETHER THEY ARE IN FAVOR OF BECOMING PUBLIC- SECTOR UNIONIZED EMPLOYEES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for the opportunity to testify.