



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Higher Education and Technology
February 3, 2023 at 2:00 p.m.

By

Jan Gouveia

Vice President for Administration
University of Hawai'i

HB 554 – RELATING TO CAMPUS SAFETY

Chair Perruso, Vice Chair Kapela, and Members of the Committee:

Thank you for the opportunity to present testimony on HB 554 – Relating to Campus Safety. The University of Hawai'i ("University") supports the intent of this bill with comments. Given the breadth and extent of the proposed requirements that impact 50,000+ students and 10,000+ employees across all ten campuses will require a minimum of four FTE positions, estimated at \$1,000,000.00.

HB 554 expands sexual misconduct and domestic violence training requirements for University students and employees and encourages reporting of sexual misconduct. Specifically, the bill: 1) requires University students and employees to receive training on sexual misconduct awareness and trauma-informed responses; 2) requires the University to ensure that that disciplinary process implementers have training or experience in handling sexual misconduct complaints and the University's disciplinary process in a trauma-informed and inclusive manner; 3) requires the University to provide mandatory, trauma-informed gender- and LGBTQ+-inclusive sexual misconduct primary prevention and awareness programming for all students and employees; and 4) prohibits the University from taking disciplinary action against individuals reporting sexual misconduct unless certain restrictions apply.

The University is committed to improving institutional responses to allegations of sexual misconduct and other forms of gender violence. To that end, it strives to adhere to national standards and best practices in the higher education context to support survivors, minimize retraumatization and further harm, and increase safety and well-being. A critical component of such support is comprehensive training for employees whose role and function require them to assist students and/or employees who may have experienced sexual misconduct or some form of gender violence in seeking options, resources and support.

Developed in 2015-2016, a comprehensive plan to effectuate these goals included, but not was limited to: conducting an inaugural campus climate survey on gender violence,

outsourcing advocacy services via contracts with community agencies, developing in-house capacity to provide confidential advocacy and process advising, and creating and implementing an extensive training program, which included both out-sourced training and certification by national experts as well as home-grown training conducted live for policy implementers, responsible employees, security officers, advocates, academic advisors, first responders, and executives.

The passage of Act 208, Session Laws 2016 created training mandates requiring biannual training for students and employees on sexual harassment and gender violence, Title IX, VAWA and University policies related to sex discrimination. However, the Act 208 legislation was not prescriptive in detailing the curricular requirements, allowing the University flexibility to determine specific content following best practices, determined by national experts and subject matter experts working on the ground locally.

Further mandates through a Voluntary Resolution Agreement with the USDOE Office for Civil Rights established additional standards for the University's Mānoa campus. As an example, the University requires biannual training of all employees and annual training of investigators, decision makers, Title IX Coordinators and related staff, security personnel and advocates on how to address allegations of sexual harassment and misconduct and how to conduct investigations.

In accordance with these requirements, The University currently provides online training programs for all students during each semester: <https://www.hawaii.edu/titleix/training/title-ix-training-students/> as well as online training for all employees: <https://www.hawaii.edu/titleix/training/online-training-employees/>

Consistent with mandates of Act 208, Session Laws 2016, and the recommendations of the Act 222 Task Force Report (Session Laws 2015) by community stakeholders and subject matter experts, the University has provided both online and in-person Title IX training to all students and staff year-round with recurring reminders of resources and training availability since Fall 2015. Continuous improvements to Title IX training have been made since the Legislature's establishment of the (former) Office of Institutional Equity in 2015, when consistent, systemwide in-person and online Title IX training became a core responsibility of the System.

The University also provides trauma-informed training to employees who are tasked with overseeing or implementing disciplinary processes. The training conducted for investigators and other UH employees involved in addressing sex or gender-based allegations of misconduct is supplemented by contractual partnerships with experts in the fields of Title IX and gender violence in higher education, such as the Association of Title IX Administrators ("ATIXA"). The University currently reviews such training to ensure that it is consistent with the August 2020 Title IX regulations which set forth additional Title IX rules, including specific training requirements.

HB 554 would require the development of culturally competent (culturally accessible) training content that is trauma-informed, and inclusive of underserved and vulnerable populations. The University recognizes the critical importance of providing training that

increases inclusivity with an emphasis on the needs of vulnerable populations, and is already engaged in implementing many of these initiatives.

As an example, in 2022, the University piloted a curriculum on gender violence in the queer community, with a particular focus on foundational considerations and best practices for queer allies and University System Advocates working with queer survivors. This curriculum development took an entire year to build and pilot, even with a dedicated advocate with professional and personal expertise as the originator. The training includes well-researched principles of trauma-informed practices, gender-inclusivity and queer-centeredness, and cultural humility.

The University also collaborates and consults with community partners in providing trainings, workshops, and educational events, such as the most recent Domestic Violence Awareness Month (DVAM) systemwide event (<http://uhcc.hawaii.edu/dvam/>) and the annual Sexual Assault Awareness Month (SAAM) systemwide event (<https://uhcc.hawaii.edu/saam/>), with programming that addresses the intersection between disability and sex discrimination, cultural awareness and wellness, survivor rights and resources, queer identity and allyship.

The University appreciates the intent of HB 554 in addressing the need to foster a community where diversity, equity, and inclusion is a foundation. However, the training requirements as described in Section (a)(10)(A-E) limits the University ability to design the training programs that supplement and build from the foundation and curricular content that the University has already developed, or adjust to changing needs of the University's population.

While collaboration with advocates, community experts, and external stakeholders in the justice system is an ongoing practice, the University is also concerned that the annual mandatory training and primary prevention awareness programming for students under HB 554 conditions would be difficult to implement. Specifically, the proposed mandatory training content requires additional guidance and feedback from the University's Office of Institutional Equity (now known as "Office of Equity Assurance"), campus Title IX teams, local law enforcement, advocates, and relevant community agencies and stakeholders. The University is also aware of emerging trauma-informed practices in discussion as facilitated by a statewide task force which led to the appointment of a Director of Wellness and Trauma informed-care by the Governor.

The University respectfully suggests that more time is needed to properly coordinate involvement between all of these groups, as gathering guidance and feedback from a sizable group of internal and external stakeholders is a large undertaking for the University to facilitate. After meeting and discussing this issue further with all relevant University and community stakeholders, a better recommendation regarding the anticipated resources required to effectuate the new mandates under this bill can be more thoughtfully procured.

The University supports the intent of this bill to make individuals feel more comfortable reporting sexual misconduct. However, the University also seeks clarification and is

concerned that the definition provided for “sexual misconduct” is broad as it includes all forms of sex discrimination. Additionally, the language in the immunity clause referring to “other violations” may create unintended consequences. As an example, if a faculty member alleges pay discrimination on the basis of sex, the immunity clause in HB 554 protects the faculty member from discipline for any violation of any policy, however unrelated to the “sexual misconduct,” unless the University “determines that the report of sexual misconduct was not made in good faith or the violation was not egregious.” Further, “egregious” violations are not defined in the bill. Finally, the immunity clause applies only to reporting parties; respondents should also be included out of fairness.

While the University continually seeks to improve and enhance current training programs and is committed to following best practices and national standards, the prescriptive nature of the measure imposes more costly requirements without additional support. Currently, the newly-formed Office of Equity Assurance is understaffed in the programming and prevention unit, with only two FTE, non-senior positions to support system wide training programs and primary prevention initiatives. The Office of Equity Assurance does not have the resources required in order to develop and properly implement all of the requirements under this bill. Thus, the University requests \$1,000,000, which includes four FTE positions to provide the University the ability to effectuate the requirements of this bill by hiring additional leaders and subject-matter experts to appropriately implement the HB 554 mandates. Additionally, the requested funds will support the extensive programmatic and curricular development, change management skills and knowledge base, and any other contractual and technological needs that implementation will require.

Thank you for the opportunity to testify on HB 554.