



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

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Senate Committee on Higher Education
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by

Debora Halbert, Associate Vice President for Academic Programs & Policy
University of Hawai'i System

SB 1328 – RELATING TO ACADEMIC TENURE AT THE UNIVERSITY OF HAWAII

Chair Kim, Vice Chair Kidani, and members of the Committee:

Thank you for the opportunity to testify in opposition to SB 1328. This bill would revise Section §304A-1002, Hawai'i Revised Statutes (HRS), to limit tenure to faculty positions of which the primary duties are instructional in nature.

First, we believe this bill is unnecessary. During the 2019 legislative session, the Hawai'i State Senate passed SR 149 SD1, a resolution requesting (in part) the University of Hawai'i (University) Board of Regents "review and, as needed, conform the classification of its faculty to ensure greater alignment with the mission and purpose of the university." The resolution asks that the review "include a comparison of other comparable or like universities to determine what revisions, if any, to Board of Regents' policies are necessary to maintain the University of Hawai'i as a contemporary institution for academic instruction, research, strong undergraduate programs, and service, as well as institute oversight to ensure that students receive the benefit of tenured instruction." The resolution also requested the University consult with the University of Hawai'i Professional Assembly (UHPA) during the review.

The University established a working group composed of the Vice President for Academic Planning and Policy and the Provost/Vice Chancellors of Academic Affairs of the three 4-year campuses to review the faculty classification system in use at the three 4-year campuses. UHPA leadership was kept informed of progress throughout. We quickly recognized the fundamental need for a more structured and rigorous approach to recognizing the complex work of faculty across instruction, research and service/outreach. The reality is that our "I" (instructional) faculty also have expectations of research/scholarship depending on their campus, and many "R" (research) faculty also teach, even if it is not in their job description.

A White Paper was presented at the February 6, 2020, Board of Regents meeting, and testimony was received regarding faculty consultation. The original intent was to begin that process in the Spring of 2020, but that plan was first slowed by the 100% focus of faculty and leadership on the institutional pivot to address the pandemic. As that situation stabilized, we were then slowed by the retirement of Vice President Donald Straney, who had been on point for the University.

An update on the formal approach to recognizing faculty workload was presented to the Board of Regents (BOR) Committee on Personnel Affairs & Board Governance in January 2021. The slides from that presentation have been provided to the Senate Committees on Higher Education and Ways & Means in response to specific questions. This work will address the classification of faculty more comprehensively in the context of the teaching, scholarship and service/outreach mission of the University. It will also provide the framework for collapsing as many as five faculty classifications into one. We believe this work will offer an alternative and preferable method of addressing the issues raised in this bill.

Second, we note that an unintended consequence of this bill might be to actually decrease the rigor of extending employment security to faculty. All public employees covered by collective bargaining agreements (CBAs) in Hawai'i are provided with a form of employment security, generally achieved based on not being released during a probationary period. The tenure process requires significant effort on the part of the faculty member to demonstrate not just to a single supervisor, but to their peers and to the entire institution that they are worthy of the employment security that comes with tenure. The less rigorous approaches to granting employment security to other public employees represent the same "long term commitment of resources" that are noted with concern in this bill. In contrast, faculty employment security in the form of tenure must be earned through performance. If this bill were to pass, there is a likelihood that a provision similar to the employment security provisions in other collective bargaining agreements would have to be negotiated into the UHPA Collective Bargaining Agreement (CBA) for every non-tenurable faculty member. Tenure does not necessarily bestow any more rights to long-term job security than employment security provisions in non-faculty contracts; even with tenure, a faculty member can be terminated for misconduct and/or for failing to perform their job duties.

Third, we would like to return to the historic purpose of tenure. The origin of tenure was to provide academic freedom for faculty members as they explore controversial topics. This is just as important for a faculty member engaged in research as it is for an instructional faculty member. Tenure ensures that faculty can engage in controversial research that pushes the boundaries of their field forward without the threat of being punished for that work. To offer just one current example, research on climate change was a challenge over these past four years for federal researchers unprotected by tenure.

Finally, we note that tenure is a subject of collective bargaining as spelled out in the faculty CBA. The University believes that tenure is a "term and condition of employment subject to collective bargaining" and that attempting to change the scope of tenure through legislation may put this statute in conflict with HRS Chapter 89.

We appreciate the goal of this proposed bill in the context of the ongoing budget crisis. We believe it is problematic for the reasons noted and unnecessary based on the collaborative work already underway through existing capabilities to improve our tenure and classification systems.

We therefore respectfully request that this bill be deferred.