



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Education and
Senate Committee on Higher Education
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By
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SB 2636 – RELATING TO CIVIL RIGHTS

Chairs Kidani and Kim and members of the committees:

Thank you for the opportunity to present testimony on SB 2636 – Relating to Civil Rights. The University of Hawai'i ("University") supports the intent of this bill and provides the following comments.

SB 2636 specifies additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS; requires covered entities to adopt written policies and undertake other specified enforcement actions no later than January 1, 2023; and requires annual reports to the Legislature.

The University appreciates its long-standing, collaborative relationship with the Women's Legislative Caucus to uphold the spirit and intent of Title IX and to create an educational environment that enhances safety and advances gender equity. The University also shares the Legislature's desire to implement policies and procedures that prevent and address sex discrimination and gender-based violence. To that end, the collegial partnership with the Caucus has positively impacted the University's policy development and programmatic efforts over the years.

As Title IX celebrates its 50th year of existence in June 2022, the framework and scope of the landmark federal legislation continues to evolve and expand. We have learned that educational institutions must be nimble yet robust in their own organizational infrastructure and programmatic goals in addressing sex discrimination and sexual misconduct. The swiftly-changing landscape necessitates vigilant attention to these critical issues as they impact policy, procedures and programmatic initiatives. Accordingly, the University appreciates the bill's intent to avoid a conflict of laws by providing that, "If any conflict arises between applicable mandatory federal requirements under Title IX (20 U.S.C. 1681 et seq.) and any state law requirements, the federal requirements shall prevail."

Given the potential for the landscape to change over time in this area, however, we believe a better long-term strategy is for educational institutions to be given the flexibility to continuously update their policies and procedures, while remaining compliant with applicable laws and regulations, through engagement with stakeholders and community

members. To this end, the University believes legislation should focus on recognizing the objectives of written policies adopted by institutions in this area, while permitting them to develop the specific details of policies and procedures as part of their internal governance structure. This will allow the University to further refine its policies and procedures over time, to align with the best practices of today and tomorrow.

While the University shares the Legislature's desire to have public data available related to the University's Title IX efforts, it respectfully suggests its current work to present robust and transparent data is accomplished through the University's Annual Report on Campus Safety and Accountability submitted to the Legislature in accordance with HRS section 304A-120. This report incorporates the results of the University's Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence, which measures students' attitudes, behaviors and standards in the context of preventing and addressing sexual harassment and gender-based violence. This comprehensive survey is conducted biennially systemwide and administered through a third-party vendor in accordance with best practices. More specifically, the University survey gathered information from students about:

- The overall campus environment related to sexual harassment and gender-based violence.
- How well the University responds to and addresses their concerns.
- Awareness of resource and reporting options for those experiencing sexual violence, sexual harassment, stalking, and interpersonal violence (domestic and dating violence).
- Prevalence (*e.g.*, how widespread) and incidence (*e.g.*, how often) of sexual violence, sexual harassment, stalking, and interpersonal violence on campus.

The results of the recurring survey which are regularly reported to the Legislature and the general public provide transparency as to the prevalence and perception of sexual harassment and gender-based violence and continue to inform the University's action plans. Instead of additional reporting requirements, the University's resources may be better served by continuing to work on the implementation of campus-based action plans, consistent with the Climate Survey data and towards preventing gender-based violence and sexual harassment. At a minimum, the University is concerned that requiring additional data as described in SB 2636 may have broader privacy implications for the individuals involved in the University's internal investigatory process. This is especially true for smaller campuses, where lower numbers of cases could lead to privacy issues even in aggregate reporting.

The University is appreciative of the long-standing support of the Legislature and the Women's Legislative Caucus and its generous appropriation of funds to establish the University's first-ever systemwide office to build infrastructure and improve institutional responses to Title IX-related allegations. To meet the continued demand for expertise in the ever-expanding legal arena of Title IX, the University respectfully requests three (3.0) position counts for its Equity Assurance Office (EAO). These position counts would restore the three positions that were abolished pursuant to Act 9, Session Laws of Hawai'i 2020, as part of a larger, unrelated initiative to abolish vacant positions at the University.

The EAO plays a critical role in ensuring competency and consistency systemwide in the implementation of all state and federal laws related to sex discrimination. At a high level, these positions would provide support for our ten-campus system as new rules are promulgated, necessitating new infrastructure and policy revisions. These positions would also provide leadership in the areas of data collection/reporting, prevention and risk reduction.

The University looks forward to continuing our work with the Legislature and the Women's Legislative Caucus to further refine the provisions of the bill, in support of a safe and nondiscriminatory campus environment.

Thank you for the opportunity to testify on SB 2636.