



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Ways and Means  
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By  
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SB 3269 SD1 – RELATING TO ACADEMIC TENURE AT THE UNIVERSITY OF HAWAII

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

Thank you for the opportunity to provide testimony in opposition to SB 3269 SD1, which among other things, outlines: tenure requirements and criteria for tenure-track faculty, requires a minimum of at least one performance review every five years for tenured and tenure-track faculty, alters who may receive tenure, and reconfigures the classification system throughout the University of Hawai'i System (UH System).

The University of Hawai'i (University) welcomes efforts to improve higher education efficiency and enhance the UH System's ability to provide a quality and affordable education to Hawai'i's citizens through its ten campuses. The University's role in educating the workforce of Hawai'i and providing leaders, innovators, public servants, and civically engaged individuals is well-known. In addition, the University's research enterprise brings into Hawai'i hundreds of millions of dollars annually to address many of Hawai'i's most pressing challenges and opportunities, including but not limited to: climate change, sea-level rise, coastal resilience, health disparities, renewable energy, invasive species, threats to agriculture, disaster resilience and more.

To achieve these critical outcomes for Hawai'i, the University extends employment security to its faculty and staff through the tenure system for faculty or civil service. As a general principle, the University supports such job security because it provides stability in the workforce and continuity for the institution, a characteristic of higher education essential to student success. The University also has the duty and contractual obligation to define its classification and performance standards within the scope of collective bargaining with the respective unions.

The University must be able to establish its own internal policy on faculty classifications, develop its classification systems to best suit its needs, and engage in good faith negotiations with the University of Hawai'i Professional Assembly (UHPA) over tenure and post-tenure review issues. As a result, the University does not support the

proposed changes to Chapter 304A as stated in this measure, and we seek deferral of this measure for the following reasons.

First, the bill's timing preempts a critical conversation on faculty classifications that should be held at the institutional level and not enshrined in statute. The introductory language of SB 3269 relies upon factually inaccurate information when it states that one outcome of SCR 201 S.D.1, H.D.1 was the formation of a Board of Regents (BOR) permitted interaction group (PIG). The PIG was established before SCR 201's passage and issued independent policy recommendations to the BOR, which the BOR never adopted. The SCR 201 task force and its report included different, though overlapping, members and had a distinctly separate mandate.

Without any clear justification, SB 3269 SD1 adopts the proposed policy language presented to the Board of Regents by the PIG with only some revisions. However, at this time the BOR has not endorsed the PIG's policy changes and any proposed policy change affecting Regents Policy is required to go through an extensive consultation process. To use this draft language to so extensively revise Chapter 304A without thoroughly deliberating on the meaning of the changes the language considers will inevitably have negative implications, some of which are described below.

Second, the bill undermines both the spirit and the letter of HRS Chapter 89. This bill bypasses the collective bargaining process by imposing statute-specific classifications and unilaterally removing specific faculty protection of tenure without appropriate bargaining with UHPA. Both tenure and faculty classifications should be subject to collective bargaining under the "other conditions of employment" clause as defined in Chapter 89-3. The governing contract between the University and UHPA with negotiated language under Article XII doesn't restrict the granting of tenure to certain Faculty classifications in SB 3269 SD1, and any modifications will need to be collectively bargained. To eliminate some faculty classifications from tenure entirely fundamentally alters a condition of employment and may have repercussions for existing faculty and future hires.

The new language may have a direct negative impact on existing faculty. The negotiated language under Article XII, Tenure and Service, provides that the President may grant tenure upon initial appointment to Faculty Members that have previously held tenure at a comparable institution. As such, this will limit the President's authority to only providing tenure upon initial appointment for those Faculty classifications that can be granted tenure under SB 3269 SD1. There are instances when a Tenured Faculty Member could transfer their locus of tenure within the UH System with the possibility of changing their classification and being harmed by the language in this bill.

Third, the requirements included in SB 3269 SD1 regarding review after tenure are unnecessary as all faculty already undergo periodic review after tenure every five years.

Additionally, the University already has procedures in place for addressing underperformance independent of the periodic review process and appropriate guidelines established to accomplish these goals.

Fourth, while the University agrees classifications should be revised, that process must be completed internally under the UH System and only after considerable consultation and debate. Enshrining explicit language regarding a new classification scheme into law undermines the autonomy of the UH System and the collective bargaining agreement upon which employment by faculty is based. It also may introduce unintended and unfavorable consequences into legislation that will be difficult to alter in future years.

Ultimately, the University requests that the Board of Regents and the President, in consultation with the UHPA, be allowed to develop the appropriate policy framework for both tenure and faculty classifications.

We oppose this measure and request that it be deferred.