



‘ŌNAEHANA KULANUI O HAWAII’

Legislative Testimony

Hō‘ike Mana‘o I Mua O Ka ‘Aha‘ōlelo

Testimony Presented Before the
House Committee on Judiciary & Hawaiian Affairs
February 10, 2023 at 2:00 p.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai‘i

HB 580 HD1 – RELATING TO VICTIM-COUNSELOR PRIVILEGE

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

Thank you for the opportunity to present testimony on HB 580 HD1 – Relating to Victim-Counselor Privilege. The University of Hawai‘i (“University”) supports this bill.

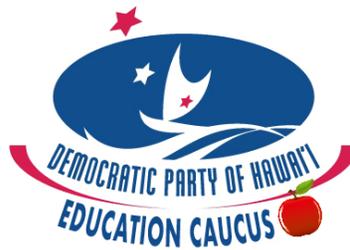
HB 580 HD1 expands the existing victim-counselor privilege held by community-based victim counseling programs to advocates employed by the University. Previously, as part of Act 208, Session Laws of Hawai‘i 2016, the Legislature required the University to designate confidential advocates at each campus to provide confidential advocacy support to victims of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. However, the law did not provide a mechanism to guarantee confidentiality to students and employees seeking services of campus-based advocates. Additionally, overall privilege does not apply to the University based on the definition of victim counseling programs under the statute.

Since 2016, many individuals have sought help from University confidential advocates. However, one of the most important factors in deciding to not seek assistance is confidentiality concerns, out of an individual’s fear that disclosure could lead to retaliation via further abuse and harassment. This is evidenced by data showing that of the students who reported experiencing some form of sexual misconduct in the 2021 Systemwide Campus Climate Survey on Sexual Harassment & Gender-Based Violence and not seek help through the University, 22.2% purport they did not report because they feared their experiences would not be kept confidential. Furthermore, over 41% of students who experienced any type of sexual or gender-based violence reported experiencing academic or professional consequences, including reduced academic performance, dropping classes, and considering leaving the university.

The University supports expanding the victim-counselor privilege to include its University confidential advocates and the important services they provide. The University’s confidential advocates continue to ensure victims can share information and receive better support from the University. This in turn allows University community members to continue to succeed in their educational, personal, and professional goals. Absent expanding the victim-counselor privilege to include the University confidential advocates,

victims may be less likely to share information, in fear that information may be later subpoenaed for court proceedings against their wishes. A decision to not seek the support of a confidential advocate could lead to lasting negative impacts on the educational and professional lives of University community members long after an incident occurs.

Thank you for the opportunity to testify on HB 580 HD1.



HOUSE BILL 580, HD1, RELATING TO VICTIM-COUNSELOR PRIVILEGE

FEBRUARY 10, 2023 · HOUSE JUDICIARY AND
HAWAIIAN AFFAIRS COMMITTEE · CHAIR REP.
DAVID A. TARNAS

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports HB 580, HD1, relating to victim-counselor privilege, which expands the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i and increases the minimum number of hours of training a domestic violence victims' counselor must complete to be considered a victim counselor.

According to the Rape, Abuse and Incest National Network, the nation's largest anti-sexual violence organization, 11.2 percent of all college students experience rape or sexual assault through physical force, violence, or incapacitation. Among undergraduate students, 23.1 percent of females experience rape or sexual assault through physical force, violence, or incapacitation. This issue is not specific to women, either. Male college-aged students (18-24) are 78 percent more likely than non-students of the same age to be a victim of rape or sexual assault. Sexual violence is pervasive on college campuses in Hawai'i. According to UH's most recent climate survey, conducted in 2021:

- Approximately 35 percent of students at the University of Hawai'i feel that the issues of sexual assault and sexual harassment are extremely, very, or somewhat problematic.

- 9.2 percent of students at the University of Hawai'i experienced sexual harassment while at the university according to the 2021 campus climate survey.
- 18.5 percent of students at the University of Hawai'i experienced dating or domestic violence while at the university according to the 2021 campus climate survey.
- 6 percent of students at the University of Hawai'i experienced nonconsensual sexual contact while at the university according to the 2019 campus climate survey, an increase of 14 percent since 2017.
- 100 percent of students experiencing sexual harassment reported negative consequences from the incidents, such as emotional trauma and adverse academic impacts.

To provide UH students with the strongest possible protections from sexual and gender violence, we should ensure that confidential advocates have the legal privilege that is necessary to sustain confidential communication with survivors. If survivors can trust that an advocate to whom they report incidents of trauma will not be compelled to initiate disciplinary or legal proceedings, then they will be far more likely to seek the support they need to heal and, ultimately, if they choose, pursue a formal claim about the harm they have endured.

Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · kriscoffield@gmail.com



SB 580, HD1, RELATING TO VICTIM-COUNSELOR PRIVILEGE

FEBRUARY 10, 2023 · HOUSE JUDICIARY AND
HAWAIIAN AFFAIRS COMMITTEE · CHAIR REP.
DAVID A. TARNAS

POSITION: Support.

RATIONALE: Imua Alliance strongly supports HB 580, HD1, relating to victim-counselor privilege, which expands the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i and increases the minimum number of hours of training a domestic violence victims' counselor must complete to be considered a victim counselor.

According to the Rape, Abuse and Incest National Network, the nation's largest anti-sexual violence organization, 11.2 percent of all college students experience rape or sexual assault through physical force, violence, or incapacitation. Among undergraduate students, 23.1 percent of females experience rape or sexual assault through physical force, violence, or incapacitation. This issue is not specific to women, either. Male college-aged students (18-24) are 78 percent more likely than non-students of the same age to be a victim of rape or sexual assault. Sexual violence is pervasive on college campuses in Hawai'i. According to UH's most recent climate survey, conducted in 2021:

- Approximately 35 percent of students at the University of Hawai'i feel that the issues of sexual assault and sexual harassment are extremely, very, or somewhat problematic.

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Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



To: House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: February 10, 2023 at 2:00PM
Place: Hawai'i State Capitol, Room 325
Re: Testimony in STRONG SUPPORT of HB580

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of HB580 which would ensure that Confidential Advocates at the University of Hawai'i have victim-counselor privilege as well as equal training requirements to other victims-advocates in Hawai'i. These actions are needed to protect the privacy of student survivors and build campus community trust in University of Hawai'i's supportive resources.

AAUW research shows that nearly two-thirds of college students nationally experience some type of sexual harassment. The repercussions of campus violence are serious: the 2021 Campus Climate Survey of the University of Hawai'i showed 46% of students reported negative academic or professional consequences after experiencing gender violence, a significant increase in percentage from 2019. Yet 5 out of 6 of students experiencing gender violence did not access campus resources post-incident. Confidentiality is a substantial barrier to getting help: one in five victims at the University of Hawai'i shared that they did not report their experiences because they feared it would not be kept confidential.

The purpose of a Confidential Advocate is extremely important, as they open doors and clarify options for students in the process of navigating college after experiencing sexual violence. HB580 is a crucial measure to guarantee true confidentiality for advocates who have access to sensitive information about the experiences of survivors. Without privilege, confidential advocates could serve as an easily accessible repository for defendants who want to devalue the perspective of a survivor by accessing this information through legal means. No victim should have to avoid accessing a Confidential Advocate for fears of confidentiality. Now is the time more than ever to act and support students by passing HB580.

The American Association of University Women (AAUW) of Hawaii is an all volunteer, statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward O'ahu. UH Hilo, UH Mānoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.

with Aloha,
Public Policy Committee, AAUW of Hawaii
publicpolicy-hi@auw.net



February 10, 2023

Members of the House Committee on Judiciary & Hawaiian Affairs

Chair David A. Tarnas

Vice Chair Gregg Takayama

Rep. Sonny Ganaden

Rep. Troy N. Hashimoto

Rep. Daniel Holt

Rep. Linda Ichiyama

Rep. Greggor Ilagan

Rep. Sam Satoru Kong

Rep. John M. Mizuno

Rep. Kanani Souza

Re: HB580 Relating to Victim-Counselor Privilege

Dear Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony in **strong support of HB580**. This bill expands the victim-counselor privilege under Rule 505.5 of the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i, and increases the training requirements for domestic violence advocates from 25 hours to 35 hours.

Survivors within the University of Hawai'i system, whether they are students or employees, should be afforded the same confidentiality protections as they would receive from community advocates and other service providers. This measure would enable more students and employees to be willing to disclose their victimization and in doing so, the opportunity to receive critical services such as safety planning. Currently, there are gaps in confidentiality and for many survivors in higher education, it can dissuade them from seeking the appropriate assistance, access to justice and resources to heal from their trauma.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

Increasing the minimum number of hours of training a domestic violence advocate from 25 to 35 would better prepare them to work with survivors of domestic violence in a trauma-informed and survivor-centered manner. This requirement is overdue for an update - Hawai'i has one of the lowest training requirements in the nation, with most states requiring an average of 35 hours.

Thank you for the opportunity to testify on this important matter.

Sincerely,
Angelina Mercado, Executive Director

**HAWAI'I
PACIFIC
HEALTH**

KAPI'OLANI
THE SEX ABUSE
TREATMENT CENTER



To: Rep David A. Tarnas, Chair
Rep Gregg Takayama, Vice Chair
Committee on Judiciary and Hawaiian Affairs

From: Lynn Costales Matsuoka, Executive Director
The Sex Abuse Treatment Center,
A Program of Kapi'olani Medical Center for Women and Children

Re: Victim Counselor Privilege, HB 580

Date: February 10, 2023

Good morning, Chair David A Tarnas, Vice Chair Gregg Takayama and Members of the Committee on Judiciary and Hawaiian Affairs.

The Sex Abuse Treatment Center (SATC) is in support of HB 580, Relating to Victim-Counselor Privilege. This bill would expand the Victim-Counselor Privilege under the Hawai'i Rules of Evidence Rule 505.5 to include confidential advocates employed by the University of Hawaii.

The Victim-Counselor Privilege has been effective in protecting trauma victims as it provides privilege status to their confidential communications. Survivors of sexual assault often face extreme difficulty and fear when disclosing their experience. The relationship between a counselor and a survivor is critical and requires trust and safety. The Victim-Counselor Privilege promotes this, and as a result, plays a big role in the survivor's recovery process.

Mandating confidential advocates to undergo a minimum of 35 hours of training, ensures they will have the knowledge, and skill to provide quality services to victims and align the confidential advocates with other victim counselors provided by this rule.

The SATC supports this measure as it will protect the confidentiality of sexual assault survivors accessing care within the University of Hawai'i system.

Thank you for the opportunity to provide testimony in support of HB 580.



February 10, 2023

Dear Chair Nakashima, Vice-Chair Matayoshi, and honorable members of the House Judiciary & Hawaiian Affairs Committee,

My name is Anna Ezzy and I am the co-State Director of the Every Voice Coalition, a student-led organization working to end sexual violence on college campuses. I am honored to have the opportunity to submit testimony in **support of the totality of HB580: Relating to Victim-Counselor Privilege**. Passing HB580 is crucial to sustaining trust between Confidential Advocates and the campus communities they serve by ensuring Advocates are truly confidential.

Confidentiality is a substantial barrier for victims to access help after experiencing sexual violence; in 2021, one in five victims at the University of Hawai‘i shared that they did not report their experiences because they feared it would not be kept confidential (2021 UH Campus Climate Survey). As a student at the University of Hawai‘i as well as a survivor of campus sexual violence, I personally understand the importance of confidential resources for victims getting the support they need to heal and continue in their education. Campus survivors often do not have the information they need to make informed decisions that will impact their educational, personal, and professional trajectories, and almost 50% of sexual violence survivors at UH in 2021 reported negative academic and/or professional consequences, a significant increase from 2019.

Confidential Advocates fill a crucial role on University of Hawai‘i campuses as a safe place for students to learn their options for support, both on campus and off campus. However, a Confidential Advocate without confidentiality privilege is misleading to students, poses additional risks for survivors, and increases institutional distrust. As a single person on campus that has access to the experiences of survivors, confidential advocates are holders of sensitive information. No victim should be barred from accessing a Confidential Advocate because they fear losing control over their story by having it shared without their consent.

Thank you for the opportunity to submit testimony in support of HB580 and mahalo for all you do to support the health and safety of Hawai‘i’s students.

Sincerely,

A handwritten signature in cursive script that reads 'Anna Ezzy'.

Anna Nalani Ezzy

co-State Director

Every Voice Coalition Hawai‘i



February 10th, 2023

Aloha Chair Tarnas, Vice-Chair Takayama, and honorable members of the House Judiciary & Hawaiian Affairs Committee,

My name is Lily Bohem James, I am a 2021 college graduate and serve as co-Executive Director of The Every Voice Coalition, and **I am testifying in support of HB580.**

There is an epidemic of sexual violence on our college campuses. To put some context into what students are experiencing every day on campuses: estimates show that 1 in 10 students will experience sexual violence during their time in college which means some 6,000 currently enrolled Hawai'i students have experienced or will experience sexual violence. **This is an outrage, but our society has grown numb to the realities that students face in their communities.** Beyond just the numbers, I ask you to think about what happens in the aftermath of these traumatic incidents– Where do these students go? Who do they talk to? What resources do they have to help them heal physically, emotionally, and mentally?

Right now, student survivors are not receiving the support they need following an experience of sexual violence. Indeed, 82.4% of University of Hawai'i students reported negative consequences after experiencing sexual violence at UH. Many student survivors will take leaves of absence or drop out of college altogether and many of these students will experience PTSD, depression, and/or misuse alcohol or drugs, often as a means of self-medication. Further, estimates show that the lifetime cost of rape– often including student loan debt as a result of adverse impacts on a survivor's educational trajectory– to be over \$122,000 per survivor.

Expanding victim-counselor privilege to include confidential advocates employed by the University of Hawai'i is a crucial step to ensuring students can access resources and receive the support they need. Advocates serve as a critical point person to direct students to resources, facilitate accommodations, and ensure that lack of knowledge is not a barrier for access.

However, students must know that the information and details they share with Advocates is kept confidential. Without that guarantee, students will never be able to feel completely comfortable and confident in their ability to seek support and help. Indeed, 1 in 5 student survivors at the University of Hawai'i shared that they did not report their experiences because they feared it would not be kept confidential. **Expanding victim-counselor privilege is a critical step to strengthen these already crucial champions on campus.**

Thank you so much for listening to the voices of students, young alums and survivors. I urge the committee to vote HB580 favorable out of committee.

With urgency,

Lily Bohem James
Co- Executive Director, The Every Voice Coalition



February 10th, 2023

Aloha Chair Tarnas and Vice Chair Takayama and honorable members of the House Committee on Judiciary and Hawaiian Affairs,

My name is Gwynne Long and I am a student at the University of Hawai'i Hilo. I appreciate the opportunity to testify in SUPPORT of SB236 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i.

Students who have been assaulted have been physically or emotionally exposed to somebody without their consent, why should they be exposed again by somebody they confide in? Knowing that you have a trained professional to lean on, without the potential risk of them going to court to testify is a small ask for somebody who has gone through a great deal of emotional turmoil. Providing confidential advocates on campus will allow survivors to have a safe space where they can begin or continue their healing process. Too many survivors refuse to seek help, because they are fearful that their own words and expression of feelings will then be used against them in court. We now have the opportunity to change that by giving survivors a safe space where they can freely express their trauma in a comfortable, secure, and confidential environment. This is a resource that can be utilized to protect survivors and keep them safe, because harboring their trauma can only lead to greater risk, including but not limited to detrimental impacts to their mental health.

The purpose of the University of Hawai'i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass SB236 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Signed,
Gwynne Long



February 10th, 2023

Aloha Chair Tarnas, Vice-Chair Takayama, and honorable members of the House Committee on Judiciary and Hawaiian Affairs,

My name is Ryan Coughlin and I am a student at the University of Hawai'i at Hilo. I appreciate the opportunity to testify in SUPPORT of SB236 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i. I was extremely shocked and disgusted to learn that victim-Counselor Privilege does not extend to the courtroom. Before I learned of this fact, I was under the impression that Victim-Counselor Privilege is there to provide Sexual Assault victims with a safe and confidential outlet to discuss their experiences. However, I believe that by forcing confidential advocates to disclose the information of victims when dealing with legal prosecution defeats the purpose of having a confidential advocate to begin with. To be straightforward, based on the definition of a Confidential Advocate, I believe that the term should be redefined to properly represent what it entails, therefore the term Confidential Advocate would transform into Confidential Advocate to a degree.

Being a Sexual Assault victim is already unfathomably traumatic, but when a victim goes to a Confidential Advocate and expects total confidentiality and instead is met with confidentiality to a degree the psychological impact that comes with this can be extremely detrimental to the victim's mental health. In addition, the fact that Confidential Advocates are not fully confidential plays a direct role in the very little amount of Sexual Assault victims that report their experiences to these advocates. So when asked the question "Why do an extremely low percentage of women report Sexual Assaults in a college setting?" It can be concluded that women do not want to report their traumatic experiences to a Confidential Advocate who is not fully confidential. To conclude, I strongly believe Confidential Advocates should be confidential when pertaining to legal prosecutions, as a result, a larger percentage of women would report their traumatic experiences which would better the victims as a whole when dealing with the plague that is Sexual Assault.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Signed,
Ryan Coughlin



February 10, 2023

Dear Chair Tarnas, Vice-Chair Takayama, and honorable members of the House Judiciary & Hawaiian Affairs Committee,

My name is Kealani B. and I am a student at the University of Hawai'i Hilo and a member of Every Voice Coalition Hawaii. I appreciate the opportunity to testify in SUPPORT of HB580 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i.

I have had personal experiences regarding my safety that have kept me from doing well in class. This was due to the stress that came from the interactions I had with a student that made me feel unsafe. As well as feeling like I was on my own in dealing with the situation, avoiding conflict, and a fear of speaking out. My experience was minor compared to many stories that I have heard from fellow student friends of all genders. Most of the stories I have heard were incidents that either never got reported or had negative consequences for the victim.

The purpose of the University of Hawai'i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass HB580 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Signed,
Kealani B.



February 10, 2023

Dear Chair Tarnas, Vice-Chair Matayoshi, and honorable members of the House Judiciary & Hawaiian Affairs Committee,

My name is Jessie and I am a student at the University of Hawai'i Hilo. I appreciate the opportunity to testify in SUPPORT of HB580 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i.

Not providing survivors with confidential resources greatly reduces the chance that they will use the resources. Survivors should not have to worry about the circumstances under which their attack happened, or have to consider repercussions. They should be able to feel safe and protected by the programs in place and the people they are talking to. Anything else takes away from the crime at hand, causing further trauma to the survivor, and distracts from getting them justice.

The purpose of the University of Hawai'i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass SB236 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Mahalo,
Jessie Gunderman

HB-580-HD-1

Submitted on: 2/9/2023 12:34:22 AM

Testimony for JHA on 2/10/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support

HB-580-HD-1

Submitted on: 2/9/2023 10:41:22 AM

Testimony for JHA on 2/10/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in STRONG SUPPORT!

HB-580-HD-1

Submitted on: 2/9/2023 11:36:18 AM

Testimony for JHA on 2/10/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jason Mark Alexander	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Jason Mark Alexander, and I am a Sociology PhD student at the University of Hawai‘i Mānoa and a representative of Academic Labor United, living in Mānoa. I appreciate the opportunity to testify in SUPPORT of HB580 Relating to Victim-Counselor Privilege to include University of Hawai‘i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims’ advocates in Hawai‘i.

The purpose of the University of Hawai‘i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass HB580 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai‘i.

HB-580-HD-1

Submitted on: 2/9/2023 12:44:08 PM

Testimony for JHA on 2/10/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Avery Bryce	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Avery Bryce and I am a community member at the University of Hawai'i Hilo, testifying on my own behalf. I appreciate the opportunity to testify in SUPPORT of HB580 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i.

The purpose of the University of Hawai'i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass HB580 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Signed,

Avery Bryce