



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Higher Education
February 10, 2015 at 2:00 p.m.

by
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 451 – RELATING TO AFFIRMATIVE CONSENT

Chair Choy, Vice Chair Ichiyama, and Members of the Committee:

Thank you for the opportunity to submit testimony on HB 451. The University of Hawai'i (University) applauds the legislature for opening the dialogue on gender and sexual violence. We further appreciate the acknowledgement that the University of Hawai'i is a key player in making advancement in these areas across the state. The University is in the process of updating its sexual violence policy and rolling out a training and implementation plan at this time. As such, we believe the measure is not necessary at this time. Additionally, we believe that from a governance and implementability standpoint, policies of this nature are more appropriately developed through the internal process and procedures of the University.

The University of Hawai'i is comprised of 10 campuses, which supports varying programs and student populations, as well as delivering diverse services and amenities to local, national, and international students. Additionally, the University employs approximately 10,000 faculty, staff and administrators that fall under collective bargaining agreements with the HGEA, UHPA, UPW, or under other board policies. To that end, any systemwide policies must follow the processes and procedures of the respective collective bargaining agreements and associative state law. Additionally, the University has a responsibility for ensuring that its policies are fair in both form and application, with regards to all stakeholders that have an interest in an affirmative consent policy.

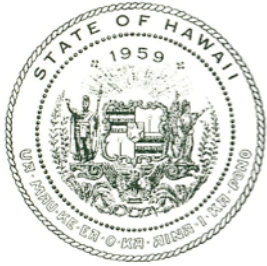
At this time, the University is in the process of issuing an updated policy that includes guidelines for the University of Hawai'i system regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking. These guidelines are intended to address the requirements of VAWA. The policy was carefully crafted, involving months of research and systemwide committee work, to achieve a policy with guidelines that would support the University's broad mission of promoting safe, healthy campus environments while at the same time addressing the complex and interrelated requirements of state and federal sex discrimination and sexual violence laws and regulations that cover students, employees, and third parties.

In closing, we appreciate and value the legislature's interest in setting the standard against sexual violence at the University of Hawai'i. However, we are in the final stages of

deploying an updated policy on sexual harassment and sexual violence that has received approval from all applicable unions and, therefore, House Bill 451 is unnecessary and duplicative at this time. Additionally, we believe that from a governance and implementability standpoint, policies of this nature are more appropriately developed through the internal process and procedures of the University.

Thank you for the opportunity to testify on House Bill 451.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
MARILYN LEE
JUDY KERN

Executive Director
Catherine Betts, JD

Email:
DHS.HSCSW@hawaii.gov
Visit us at:
humanservices.hawaii.gov
/hscsw/

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

February 6, 2015

To: Representative Isaac W. Choy, Chair
Representative Linda Ichiyama, Vice Chair
Members of the House Committee on Higher Education

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 451, Relating to Affirmative Consent

Thank you for hearing HB 451 and for this opportunity for the Commission to testify in strong support of HB 451, which would mandate that the University of Hawaii implement an affirmative consent standard and policy for purposes of dealing with sexual assault cases, systemwide. Additionally, HB 451 contains important components, including increased sexual assault prevention and education, increased crisis intervention services, and procedural protections for both victims and the accused.

The affirmative consent standard, as used in best practices across the nation within higher educational institutions, is not new. 800 colleges and universities nationwide have already adopted affirmative consent policies, according to the National Center for Higher Education Risk Management. While California is the only state that has implemented a statewide law, currently 10 other states in the nation are considering affirmative consent legislation. Other universities that have implemented this policy report that an affirmative consent policy improves the campus climate. Further, victims feel more inclined to report knowing that their character, clothing, alcohol intake, or other irrelevant data about their personal life will not be called into question in order to determine whether consent was given.

Consent, viewed from a “no” standard, does not accurately capture the reality of how consent plays out in actual relationships. Consent and sexual activity, occur on a continuum. Simply because a person consents to one sexual act, obviously does not mean that he or she is consenting to all sexual acts. An affirmative consent standard allows for healthy discussion, constant checks on behavior, and requests for affirmation that there is actual consent. HB 451 removes ambiguity by providing that consent is characterized by “affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time.” In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent. This is especially important considering the number of sexual assaults that occur after a victim has been intoxicated or drugged. This standard is consistent with Hawaii law, which provides that an incapacitated individual is incapable of consenting.

The University of Hawaii at Manoa continues to be under Title IX investigation by the United States Department of Education, Office of Civil Rights, along with more than 50 other universities nationwide. When the Commission began discussions with the UHM about the need for Title IX and VAWA compliance, a robust training process, more hiring of Title IX staff, education on sexual violence and dating violence during new student orientation, and the availability of campus crisis services for students who experience sexual violence, the discussion was slow and much was promised in terms of compliance and movement forward.

Since the Title IX resolution passed last session which required a report back on progress made, little has been done. In its report back to the legislature a full year after the initial request, UHM provided a short report in which it details anticipatory progress and more promised focus on sexual violence. In this year that has passed, there have been more victims, more students not knowing who or where their Title IX coordinator is, more talk of the difficulty of complying with Title IX (a law that has been in place for over 40 years), and more media scrutiny on the lack of support and services for victims systemwide.

While we appreciate the opportunity for dialogue with the University that this bill represents, it is the Commission's belief that a legislative mandate is necessary to move the University forward. Finally, some minor housekeeping amendments should be made where the bill references educational entities not present in the UH system. We strongly support HB 451 and request that the Committee move this bill. Thank you for your time.



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

February 3, 2015

To: Rep. Issac W. Choy, Chair
Rep. Linda Ichiyama, Vice Chair
COMMITTEE ON HIGHER EDUCATION

From: Marci Lopes, Executive Director
Hawaii State Coalition Against Domestic Violence

Hearing Date and Time: Thursday, February 05, 2015; 1:30 p.m.

Place: Conference Room 224

RE: HB 451 STRONG SUPPORT

The Hawaii State Coalition Against Domestic Violence is a statewide partnership of domestic violence programs and shelters. Our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

We strongly support HB 451. It is imperative that the State of Hawaii takes a strong stance in examining and improving systems to end all forms of violence against women and girls.

HSCADV is a resource for the University and the community at large to access for our expertise in the field of domestic violence, and for our training that is certified by the Department of Justice and the Office on Violence Against Women. HSCADV hopes that you will also contact the HSCADV membership who are the on the ground experts providing direct services to victims who may need counseling services, legal services or shelter, services for children exposed to violence, and also our batterer intervention programs. The Hawaii State Coalition Against Domestic Violence also has a Survivor Action Committee that works to improve system response, and to increase awareness of the services that are available to victims.

HSCADV is a resource if you have further questions or concerns.

Marci Lopes
Executive Director



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR HOUSE BILL 451, RELATING TO AFFIRMATIVE CONSENT

House Committee on Higher Education

Hon. Isaac W. Choy Chair

Hon. Linda Ichiyama, Vice Chair

Tuesday, February 10, 2015, 2:00 PM

State Capitol, Conference Room 309

Honorable Chair Choy and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 300 local members. On behalf of our members, we offer this testimony in strong support of HB 451, relating to affirmative consent.

In its 2010 Sexual/Relationship Violence Survey, the University of Hawai'i found that 54 female UH-Manoa students noted being raped or sexually assaulted out of a sample size of 565 respondents, an approximately 10 percent per-population average, which comports with national averages. Out of 2,700 respondents, though, only 9 percent of students who noted sexual assault during their time at UH actually reported it, while just 7 percent who said they were raped reported the incidents. Moreover, in 2014, UH-Manoa was named one of 55 colleges under federal scrutiny for its handling of sexual assault and gender-based violence. Roughly 1 in 4 female students around the country are likely to be sexually assaulted as undergraduates, according to national figures, with the Department of Justice finding that 80 percent of campus rapes went unreported between 1995 and 2013.

Enacting a “yes means yes” policy for UH campuses—all of which were declared as “rape free zones” in 2005—will encourage university administrators to take a vigorous stand against sexual assault. While critics argue that “yes means yes” policies are difficult to enforce, the safety of our students demands action. This bill will not “turn people into unwitting rapists,” as *Reason Magazine* argued, but would instead establish clear boundaries for what does not qualify as consent for a sexual encounter, including intoxication, pharmaceutical impairment, and sleep. Strange as it may seem to elucidate such limits in law, college students, today, are routinely faced with situations in which expressions of voluntary agreement to sexual conduct are unsolicited or disregarded. In a “no means no” juridical setting, the burden of proof falls on the sex assault victim to prove that s/he has been assaulted, with cases often devolving into “he said, she said” debates. While this bill will not resolve all ambiguities in determining whether or not verbal or

nonverbal communication of consent was obtained, it will create a victim-centered approach to sexual assault cases, whereby the victim's medical and psychological needs are the first priority of administrators. Perhaps most importantly, this bill mandates the provision of information regarding sexual assault counseling to potential victims, exactly the kind of services needed to make victims feel safe and incentivize reporting. Of equal significance is this bill's emphasis that consent "may be revoked at any time," meaning that consent must be maintained throughout a sexual act. Thus, a victim for whom a "kiss was just a kiss" will be protected from having the initial physical gesture used as evidence that "s/he wanted it," a particularly insidious and common way of shaming victims into silence.

Passionate trysts will not be criminalized under this law. If both or all partners to sexual conduct are enthusiastic about the encounter, they will have no reason to file a complaint. Some naysayers contend that one partner could feel ambivalent about the act after the fact and reinterpret the act as assault, but this is, yet again, little more than a hyperbolic attempt to blame victims for their assaults. According to the Department of Justice and City University of New York School of Law dean Michelle Anderson, false rape accusations occur at a rate of merely 2 percent, a similar rate of false accusations for other violent crimes. **Therefore, it is unlikely that this or any other anti-rape measure will lead to increased persecutions of innocent students.**

Could a student infer consent from a prospective sexual partner pulling them down on a dorm room bed and motioning to remove their clothes? Perhaps. In light of the high rate of sexual assaults on our campuses, however, isn't it more important to protect against sexual violence? More simply, does it hurt our students to ask? We would strongly answer, "no." We hope that you do the same.

Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



National Association of Social Workers Hawai'i Chapter

Date: February 8, 2015

To: **House Committee on Higher Education**
Chair, Representative Isaac W. Choy
Vice-Chair, Representative Linda Ichiyama

The National Association of Social Workers, Hawaii Chapter (NASW) strongly supports House Bill 451, relating to Affirmative Consent

The first Affirmative Consent bill was implemented in California last year, since then 9 other states are in the process of considering legislation. Affirmative Consent is an evolution from the "No mean No" ideology to state clearly that when a sexual act is being considered, both parties are clearly stating their consent to the action, and can be withdrawn at any time during the sexual act.

The establishment of a relationship does not give grounds for consent to be implied and someone who is incapacitated or inebriated is unable to give consent. Consent is determined by "affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time." Silence from a participant, lack of protest or resistance does not mean consent and consent to one sexual act does not mean consent to all or future sexual acts.

Across the country, over 800 colleges and universities have already adopted affirmative consent policies (National Center for Higher Education Risk Management). Adopting these policies have lead to conversations about consent and what constitutes a healthy relationship and have lead to positive changes in campus climates. This implementation allows victims to come forward and know that there is a clear standard in place for what constitutes consent, which helps ensure their credibility and personal lives will not be under fire when determining if consent occurred.

The University of Hawai'i at Manoa is one of the 55 schools nationally under investigation for Title IX violations, it is clear that legislative mandates are required to drive the University of Hawai'i system forward. Thank you for your consideration.

Sonja Bigalke-Bannan, MSW, LSW
Executive Director
National Association of Social Workers, Hawaii Chapter



THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

Executive Director
Adriana Ramelli

Advisory Board

President
Mimi Beams

Vice President
Peter Van Zile

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

Marilyn Carlsmith

Senator
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Robert H. Pantell, MD

Gidget Ruscetta

Joshua A. Wisch

DATE: February 10, 2015

TO: The Honorable Isaac Choy, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Higher Education

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

RE: Testimony in Support of House Bill 451
Relating to Affirmative Consent

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center, a program of Kapi'olani Medical Center for Women & Children, in support of House Bill 451 (H.B. 451).

H.B. 451 would strengthen protections for survivors of sexual assault on college campuses within the University of Hawai'i system (UH) by requiring it to adopt an affirmative consent standard for the evaluation of complaints, implement comprehensive prevention programs and survivor-centered sexual assault response policies and protocols, and form partnerships with on campus and community-based organizations to assist survivors with connecting to services.

Sexual assault remains epidemic on college campuses and has garnered national attention. 1 in 5 women and 1 in 16 men are sexually assaulted during college. Moreover, 90% of these assaults go unreported, and, even of reported assaults, only 30% of perpetrators who are actually found guilty are expelled by schools.

Findings like these have triggered sweeping federal countermeasures, including strict mandates for annual reporting by schools about specific features of their sexual assault programs. Additionally, 55 colleges nationwide, including UH, are under federal investigation for their handling of sexual assault allegations.

Although the federal government has provided some guidance for colleges, a lack of uniform standards has meant that schools continue to struggle to implement policies and programs to prevent sexual assault and provide adequate support to survivors. This is unacceptable, as schools have a universal responsibility to provide a safe and secure campus where students are able to pursue their educational goals, and sexual assault can have devastating effects that interfere with survivors' physical, emotional, social, and academic functioning.

H.B. 451 assists the UH system to resolve one of the most difficult problems faced by schools attempting to identify acts of sexual assault: determining whether consent existed for a sexual act. H.B. 451 removes ambiguity by providing that consent is

characterized by “affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time.” In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent, and consenting to one sexual act does not mean consenting to all sexual acts.

Moreover, H.B. 451 requires that UH schools implement comprehensive training of students with regard to the affirmative consent standard and UH's overall sexual assault policy. This ensures that all students will be aware that one standard for determining if consent exists shall apply across the UH system.

Finally, H.B. 451 encourages survivors to report assaults and obtain necessary medical, emotional and legal help, as it specifically requires survivor-centered policies and procedures, including a standard protocol for receiving and investigating complaints, retaining services to care for survivors, coordination with law enforcement, trauma-informed training of school staff, and confidential reporting procedures.

By providing the UH system an unambiguous standard of affirmative consent, and by empowering survivors to report sexual assaults and obtain help, your support of H.B. 451 protects Hawai'i's college students and takes an important step towards ensuring a safe and respectful learning environment.

ichiyama2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 03, 2015 11:09 AM
To: HEDtestimony
Cc: jbickel15@yahoo.com
Subject: Submitted testimony for HB451 on Feb 10, 2015 14:00PM

HB451

Submitted on: 2/3/2015

Testimony for HED on Feb 10, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
John Bickel	Individual	Support	No

Comments: As a teacher, I understand the importance of drawing a clear line to protect girls from unwanted sexual advances. This law would send a strong message to boys that they need to get clear affirmative consent before engaging in sex. As I tell my students, if you are not comfortable talking about sex with a partner, you are not ready for sex with that partner. This bill promotes discussion. Please support it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Date: Tuesday, February 10, 2015

Time: 2:00 PM

Place: Conference Room 309

To: House Committee on Higher Education
Representative Isaac W. Choy, Chair
Representative Linda Ichiyama, Vice Chair

Re: Support of HB 451 Relating to Affirmative Consent

My name is Kristine Jan Espinoza and I am a higher education graduate student at the University of Hawai‘i at Mānoa (UHM). I am writing in strong support of HB 451, which requires the University of Hawaii system to establish and enforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking as a condition of receiving state funds for student assistance.

Reframing the “No Means No” standard to “Yes Means Yes” can better capture the reality of how consent plays out in relationships. An affirmative consent standard promotes constant checks on behavior, especially as consent and sexual activity occurs on a continuum. With the proposed bill, the “lack of protest, lack of resistance, or silence on the part of any party does not constitute that party’s consent” also removes ambiguity to the characterization of consent.

An additional recommendation for the legislature is to ensure dedicated funding for existing prevention and outreach programs. While the current bill language calls for the UH System to implement comprehensive prevention and outreach programs, these **already exist** at the UH campuses with the PAU Violence Program, or **Prevention Awareness Understanding Violence** Program, that has in place a UH system-wide network developing infrastructure to provide awareness and education, as well as academic, personal, and mental health support for survivors. However, the PAU Violence Program does not have sustained/dedicated funding.

Especially with how the University of Hawai‘i at Mānoa continues to be under Title IX investigation along with other universities nationwide, it is clear that legislative mandates are required to push the University of Hawai‘i System forward.

Respectfully submitted,
Kristine Jan Espinoza
kjespino@hawaii.edu

ichiyama2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 09, 2015 1:00 PM
To: HEDtestimony
Cc: sn35@hawaii.edu
Subject: Submitted testimony for HB451 on Feb 10, 2015 14:00PM

HB451

Submitted on: 2/9/2015

Testimony for HED on Feb 10, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Nishihara	Individual	Support	No

Comments: As an individual, speaking from the office of the President of the Associated Students of the University of Hawaii, I support this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Date: Tuesday, February 10, 2015

Time: 2:00 PM

Place: Conference Room 309

To: House Committee on Higher Education
Representative Isaac W. Choy, Chair
Representative Linda Ichiyama, Vice Chair

Re: Support of HB 451 Relating to Affirmative Consent

My name is Penn Pantumsinchai and I am a graduate student at the University of Hawai‘i at Mānoa. I am writing in strong support of HB 451, which requires the University of Hawaii system to establish and enforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking as a condition of receiving state funds for student assistance.

Reframing the “No Means No” standard to “Yes Means Yes” can better capture the reality of how consent plays out in relationships. An affirmative consent standard promotes constant checks on behavior, especially as consent and sexual activity occurs on a continuum. With the proposed bill, the “lack of protest, lack of resistance, or silence on the part of any party does not constitute that party’s consent” also removes ambiguity to the characterization of consent.

Additional recommendations for the legislature is to ensure dedicated funding for existing prevention and outreach programs. While the current bill language calls for the UH System to implement comprehensive prevention and outreach programs, these **already exist** at the UH campuses with the PAU Violence Program, or **P**revention **A**wareness **U**nderstanding **V**iolence Program, that has in place a UH system-wide network developing infrastructure to provide awareness and education, as well as academic, personal, and mental health support for survivors.

Especially with how the University of Hawai‘i at Mānoa continues to be under Title IX investigation along with other universities nationwide, it is clear that legislative mandates are required to push the University of Hawai‘i System forward.

Respectfully submitted,

Penn Pantumsinchai

ppantum@hawaii.edu

808-754-1128

LATE

Committee on Higher Education

Rep. Isaac W. Choy, Chair

Rep. Linda Ichiyama, Vice Chair

DATE: Tuesday, February 10, 2015

TIME: 2:00 PM

PLACE: Conference Room 309

STRONG SUPPORT FOR HB 451 requiring affirmative consent

We in the Coalition have long supported initiatives to empower women and girls at work, at home and at school. The most fundamental condition for that empowerment is the right to physical and emotional safety. Yet sadly violence against women and girls is still pervasive in our society. Our institutions seem to be riddled with it and our universities are no exception. The University of Hawaii is under investigation, along with many others, for not complying with the Violence Against Women Act, that dovetails with the provisions of Title IX.

In our University, sex assault is under-reported, mishandled and too often swept under the rug in order for the system to save face.

One state, California, has required its university system to implement an affirmative consent standard for campus procedures involving sexual assault as a step towards moving the onus away from the victim. Nine other states are actively considering legislation.

"Affirmative Consent" makes a clearer definition of what sex assault actually is. What this standard does is make "consent" less ambiguous. Specifically, it provides that consent be determined by an "affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time." In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent, and consenting to one sexual act does not mean consenting to all sexual acts. This is important since perpetrators often cite lack of protest as evidence that she (or he) wanted it.

If this bill becomes law we can hope for a healthier campus climate that would result in more victims coming forward if they know their personal life and credibility will not be called into question when determining whether consent occurred.

Moreover, there is precedent for "yes means yes." 800 colleges and universities across the nation already have adopted affirmative consent policies, according to the National Center for Higher Education Risk Management. Universities that have adopted this standard report that this policy has improved campus climate and changed the dialogue about healthy relationships and consent.

Finally, why do we need a law? Well, the last several decades show that our University system has been unmotivated to meaningfully address the problem of rape on campus. Therefore, legislative mandates are needed to propel the University system forward and make it a safe place in which young women (and men) can achieve their full potential.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition

Contact: annsfreed@gmail.com Phone: 808-623-5676



February 10, 2015

To: Representative Isaac Choy, Chair
Representative Linda Ichiyama, Vice Chair and
Members of the Committee on Higher Education

LATE

From: Jeanne Y. Ohta, Co-Chair

RE: HB 451 Relating to Affirmative Consent
Hearing: Tuesday, February 10, 2015, 2:00 p.m., Room 309

POSITION: Strong Support

The Hawai'i State Democratic Women's Caucus (HSDWC) writes in strong support of HB Relating to Affirmative Consent which would require the University of Hawaii system to establish and enforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking as a condition of receiving state funds for student assistance.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls it is because of this mission that that the caucus strongly supports this measure.

HSDWC is concerned about the lack of effort by the University of Hawaii system to comply with Title IX and VAWA requirements; and by the administration's excuse that they lack resources to follow these laws. UH is responsible for maintaining a safe environment free from violence for all students. This requirement is not new.

California has recently implemented an affirmative consent standard for campus procedures involving sexual assault; and 9 other states are actively considering legislation. In addition, 800 colleges and universities across the nation already have adopted affirmative consent policies.¹

Affirmative consent provides for a clearer definition of what sex assault is and provides for less ambiguity. Further, it provides that consent is determined by an "affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time." In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent, and consenting to one sexual act does not mean consenting to all sexual acts.

Establishing an affirmative consent policy can lead to healthier campus climate and allow more victims to come forward if they know their personal life and credibility will not be called into question when determining whether consent occurred.

¹ National Center for Higher Education Risk Management
Hawai'i State Democratic Women's Caucus, 404 Ward Avenue Suite 200, Honolulu, HI 96814
hidemwomen@gmail.com

Other universities report that this policy has improved campus climate and changed the dialogue about healthy relationships and consent

According to campus reports issued in compliance with the Clery Act, UH Manoa reported 11 forcible sex offenses in 2012. Systemwide, the number was 11. In 2011, Manoa reported 12 assaults and systemwide there were 16 reported. The Clery Act requires annual reporting of statistics for various criminal offenses including sexual assault, however, Kauai and Leeward campuses did not issue reports the last two years.

The Caucus has been concerned about violence against women on the UH campuses for almost a decade and has advocated for the improvement of campus policies and procedures. We have found the UH administration to be unresponsive to our concerns. This is why we strongly support legislative action to hold the UH administration accountable for implementing needed policies and procedures.

We ask that the committee pass this measure and we thank the committee for the opportunity to provide testimony.

To: Hawaii State House of Representatives Committee on Higher Education
Hearing Date/Time: Tuesday, February 10, 2015, 2:00 p.m.
Place: Hawaii State Capitol, Rm. 309
Re: Testimony of Planned Parenthood of Hawaii in support of H.B. 451

Dear Chair Choy and Members of the Committee on Higher Education,

Planned Parenthood of Hawaii (“PPHI”) writes in support of H.B. 451, which seeks to require the University of Hawaii system to establish and reinforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence and stalking as a condition of receiving state funds for student assistance.

Planned Parenthood of Hawaii is dedicated to providing Hawaii’s people with high quality, affordable and confidential sexual and reproductive health care, education, and advocacy. We are proud to stand in support of this legislation and to offer our support as a leading sexual and reproductive health care provider. The intersections of gender-based violence and reproductive health are clear. At PPHI, we work to meet the needs of survivors—and to prevent sexual assault from ever happening—in all areas of our work, from screening for intimate partner violence, to advocating for policies that support comprehensive sexual education, including teaching about healthy relationships and consent.

The need for action on college sexual assault in Hawaii is urgent. An estimated one in four women and three percent of men in the United States experience an attempted or completed rape while in college. Moreover, the University of Hawaii system is under federal investigation for Title IX violations and sexual violence case mishandling. This is unacceptable.

H.B. 451 would help strengthen campus resources and supportive services for college students. PPHI is especially pleased that the legislation would establish an education program for students and faculty to learn about affirmative consent, bystander intervention, and how to handle sexual assault cases.

But education about healthy relationships and consent needs to start much earlier than college. In addition to these efforts, we need comprehensive sexual education in every school, starting in kindergarten, to make sure students learn about healthy relationships many years before they even think about going to college or entering into intimate relationships. The gaps that remain in Hawaii’s sexual health education have a significant impact on young people's well-being and future relationships.

HONOLULU
1350 S. King Street, Suite 310
Honolulu, HI 96814
808-589-1149

KAUAI
Education & Outreach
808-482-2756

KONA
Education & Outreach
808-442-4243

MAUI
Kahului Office Center
140 Ho’ohana Street, Suite 303
Kahului, HI 96732
808-871-1176



We urge the legislature to pass H.B. 451, and we also call on the Hawaii State Department of Education to ensure that comprehensive, age-appropriate sexual health education is provided to every student, every year, from kindergarten through 12th grade."

Thank you for this opportunity to testify in support of H.B. 451.

Sincerely,

Laurie Field
Director of Public Affairs & Government Relations

Fernhurst YWCA
1566 Wilder Avenue
Honolulu, Hawai'i 96822
P: (808) 941-2231
F: (808) 945-9478

Kokokahi YWCA
45-035 Kane'ohe Bay Drive
Kane'ohe, Hawai'i 96744
P: (808) 247-2124
F: (808) 247-6124

Laniākea YWCA
1040 Richards Street
Honolulu, Hawai'i 96813
P: (808) 538-7061
F: (808) 521-8416

www.ywcaoahu.org

February 10, 2015

To: Rep. Isaac Choy, Chair
Rep. Linda Ichiyama, Vice Chair
Members of the House Committee on Higher Education

From: Noriko Namiki
YWCA of O'ahu

Re: Support for HB 451 – Relating to Affirmative Consent

Aloha Chair Choy, Vice Chair Ichiyama and members of the committee:

My name is Noriko Namiki, Chief Executive Officer of the YWCA of O'ahu, testifying in support of HB 451, Relating to Affirmative Consent, which would mandate that the University of Hawaii implement an affirmative consent standard and policy for purposes of dealing with sexual assault cases, system-wide. Additionally, HB 451 contains important components, including increased sexual assault prevention and education, increased crisis intervention services, and procedural protections for both victims and the accused.

Although California is the only state that has implemented a statewide law, Hawaii and ten other states in are considering affirmative consent legislation. Of the more than 800 universities and colleges that have implemented this policy, the majority report that an affirmative consent policy improves the campus climate. Mandating an affirmative consent policy across all UH campuses would provide better understanding of the university's policies and would even out the disparate process in which different campuses approach sexual assault cases.

The University of Hawaii is still under a Title IX investigation by the United States Department of Education, Office of Civil Rights, along with more than 50 other universities nationwide. When the Commission began discussions with the UHM about the need for Title IX and VAWA compliance, a robust training process, more hiring of Title IX staff, education on sexual violence and dating violence during new student orientation, and the availability of campus crisis services for students who experience sexual violence, the discussion was slow and much was promised in terms of compliance and movement forward.

Despite the passage of Title IX of the Education Amendments of 1972, which protects individuals from discrimination based on sex in education programs or activities that receive Federal financial assistance, and the 2013 reauthorization of the Violence Against Women Act ("VAWA"), which expands protections for victims of domestic abuse and sexual assault, it is still shocking to see that even today one in five women will be the victim of rape or attempted rape. For women who attend college, the statistics are grimmer with one in four college women reporting rape or attempted rape since their 14th birthday.

In 2012, UH Manoa reported 11 forcible sex offenses in 2012 according to a campus report issued in compliance with the Clery Act, which provides guidelines for campus safety and security reporting. System-wide, the number was 11 in 2012. In 2011, UH Manoa reported 12 assaults with 16 reported system-wide. The Clery Act requires annual reporting of statistics for various criminal offenses including sexual assault, however, Kauai and Leeward campus did not issue reports for the last two years.

Although Title IX and the changes to VAWA, specifically to Section 304 – that Campus Sexual Violence Act Provision – which imposes new rules that demand institutional overhaul and a renewed commitment to compliance at universities like UH which receive federal funding, UH students continue to face sexual violence on campus. We are gravely concerned that not only are sexual crimes under-reported system-wide, they are going unreported and perpetrators are getting away unpunished.

Since its founding in 1900, the YWCA of O‘ahu exists to cultivate opportunities for women’s and girls’ growth and leadership, to help them create fulfilling lives for themselves and their families, and facilitating social change with positive economic impact for their communities.

On behalf of the YWCA of O‘ahu, I humbly urge members of this committee to pass this legislation.

With Aloha,

A handwritten signature in black ink, appearing to read "Noriko Namiki". The signature is fluid and cursive, with a period at the end.

Noriko Namiki
Chief Executive Officer
YWCA of O‘ahu

ichiyama2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 09, 2015 4:14 PM
To: HEDtestimony
Cc: bp32@hawaii.edu
Subject: *Submitted testimony for HB451 on Feb 10, 2015 14:00PM*

LATE

HB451

Submitted on: 2/9/2015

Testimony for HED on Feb 10, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Bret Polopolus-Meredith	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov