
HOUSE RESOLUTION

CONVENING A TASK FORCE TO ADDRESS IMPLEMENTATION OF HAWAII'S
STATE LAW COROLLARY TO TITLE IX TO STRENGTHEN HAWAII'S
EFFORTS TO END CAMPUS-BASED SEXUAL VIOLENCE AND GENDER
DISCRIMINATION.

1 WHEREAS, Title IX of the federal Education Amendments of
2 1972, renamed in 2002 as the Patsy T. Mink Equal Opportunity in
3 Education Act in honor of its principal author, former Hawaii
4 Congresswoman Patsy Takemoto Mink, states that "[n]o person in
5 the United States shall, on the basis of sex, be excluded from
6 participation in, be denied the benefits of, or be subjected to
7 discrimination under any education program or activity receiving
8 Federal financial assistance"; and
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10 WHEREAS, the Office for Civil Rights (OCR) within the
11 United States Department of Education (USDOE) enforces Title IX
12 by, among other things, investigating complaints and issuing
13 informal guidance to educational programs; and
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15 WHEREAS, in 2011, OCR issued a nineteen-page "Dear
16 Colleague" letter clarifying that Title IX prohibits sexual
17 harassment as well as sexual violence and setting out in detail
18 the key requirements that must be followed by educational
19 programs in response to complaints of sexual harassment and
20 sexual violence; and
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22 WHEREAS, in 2014, as a follow-up to the 2011 "Dear
23 Colleague" letter, OCR issued a Question and Answer document
24 further clarifying a school's obligation to respond to sexual
25 violence under Title IX procedural requirements; and
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27 WHEREAS, both the 2011 "Dear Colleague" letter and the 2014
28 Question and Answer document were disseminated in response to
29 growing awareness of the issue of campus sexual assault and the
30 intentional failure of institutions of higher education to
31 respond; and



1 WHEREAS, in January 2017, a new president took office, and
2 the following month, the federal government withdrew guidance
3 documents that had extended Title IX protections to transgender
4 students. In September 2017, USDOE also withdrew the 2011 "Dear
5 Colleague" letter and 2014 Question and Answer document issued
6 by OCR under the prior federal administration. At the same
7 time, USDOE announced its intent to engage in new rulemaking on
8 Title IX; and

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10 WHEREAS, on November 29, 2018, USDOE issued a notice of
11 proposed rulemaking that would significantly amend existing
12 Title IX regulations and create new regulations. Among other
13 things, the proposed regulations would reduce the number of
14 complaints involving sexual harassment and other forms of sexual
15 misconduct that currently fall within the purview of Title IX.
16 The proposed regulations would also limit the scope of
17 educational institutions' liability for complaints of sexual
18 harassment; and

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20 WHEREAS, the proposed regulations were publicly criticized
21 by victim advocates as "devastating" for survivors of sexual
22 harassment and sexual assault. More specifically, commenters
23 anticipated that the proposed regulations would have the effect
24 of discouraging the reporting of sexual harassment and sexual
25 assault. Further, the proposed rules were characterized as
26 protecting schools above all, and not protecting students,
27 accused or otherwise; and

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29 WHEREAS, in response to the intended policy changes
30 announced by USDOE on the scope of Title IX's application, the
31 Hawaii Legislature passed, and the Governor signed into law,
32 Act 110, Session Laws of Hawaii 2018 (Act 110). Act 110
33 established a state law corollary to Title IX that prohibits
34 sex-based discrimination in state-administered or state-funded
35 educational programs or activities, including discrimination
36 based on sexual orientation, gender identity, and gender
37 expression; and

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39 WHEREAS, Act 110 also requested the Legislative Reference
40 Bureau to study and report on the status of Title IX enforcement
41 nationally and in other jurisdictions, and to make



1 recommendations relevant to implementation of the state law
2 corollary; and

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4 WHEREAS, the Legislative Reference Bureau's report was
5 published in October 2019; and

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7 WHEREAS, after receiving more than 124,000 public comments
8 on the proposed Title IX regulations, USDOE formally published
9 the final Title IX regulations (also known as the "Final Rule")
10 in the *Federal Register* on May 19, 2020; and

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12 WHEREAS, the Final Rule, which took effect on August 14,
13 2020, is similar in many respects to the proposed Title IX
14 regulations but also reflects further changes made by USDOE in
15 response to issues raised during the public comment process; and

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17 WHEREAS, on November 25, 2020, the International Day for
18 the Elimination of Violence against Women, President-elect Joe
19 Biden released a statement in which he pledged to "restore
20 Title IX protections for student survivors of sexual assault,
21 stalking, and dating violence"; and

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23 WHEREAS, according to the Rape, Abuse, and Incest National
24 Network, one in ten students across the United States will
25 experience sexual violence while attending an institution of
26 higher education; and

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28 WHEREAS, according to the United States Department of
29 Justice, an estimated ninety percent of survivors of
30 campus-based sexual violence do not report such violence through
31 official institutional or legal protocols; and

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33 WHEREAS, according to the University of Hawaii systemwide
34 campus climate survey of 2019, 12.7 percent of students have
35 reported experiencing sexual harassment, 10.6 percent have
36 experienced stalking, 21.3 percent have experienced dating
37 violence, and 7.2 percent have experienced nonconsensual sexual
38 contact, all of which represent significant increases from the
39 University of Hawaii systemwide campus climate survey results of
40 2017; now, therefore,



1 BE IT RESOLVED by the House of Representatives of the
2 Thirty-first Legislature of the State of Hawaii, Regular Session
3 of 2021, that an Act 110 Implementation Task Force be convened
4 to address implementation of Hawaii's state law corollary to
5 Title IX to strengthen Hawaii's efforts to end campus-based
6 sexual violence and gender discrimination; and
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8 BE IT FURTHER RESOLVED that the Act 110 Implementation Task
9 Force is requested to recommend amendments to Hawaii's state law
10 corollary for the purpose of addressing potential conflicts
11 between Hawaii's law and the federal government's recent changes
12 to the Title IX regulations, while considering the possible
13 impacts of any restoration by the new federal administration of
14 prior Title IX protections, and to recommend a meaningful
15 enforcement framework for Hawaii's state law corollary to
16 Title IX; and
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18 BE IT FURTHER RESOLVED that the membership of the Act 110
19 Implementation Task Force consist of one representative from
20 each of the following entities, and that upon convening, the
21 members elect a chairperson from among themselves:
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- 23 (1) The Office of Institutional Equity of the University
24 of Hawaii System;
- 25
26 (2) The Hawaii Civil Rights Commission;
- 27
28 (3) The Civil Rights Compliance Branch of the Department
29 of Education;
- 30
31 (4) The Department of the Attorney General;
- 32
33 (5) The Hawaii State Commission on the Status of Women;
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35 (6) The Prevention, Awareness, and Understanding Violence
36 Program of the University of Hawaii System;
- 37
38 (7) The American Association of University Women of
39 Hawaii, which shall be invited to participate;
- 40
41 (8) The Hawai'i Coalition to End Domestic Violence, which
42 shall be invited to participate;



1 (9) The Sex Abuse Treatment Center, which shall be invited
2 to participate; and

3
4 (10) The Every Voice Coalition, which shall be invited to
5 participate; and

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7 BE IT FURTHER RESOLVED that the Act 110 Implementation Task
8 Force is requested to consider in its deliberations the:

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10 (1) Availability of resources for survivors of
11 campus-based sexual violence;

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13 (2) Adequacy of evidence-based and trauma-informed
14 training regarding sexual violence for faculty, staff,
15 and students;

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17 (3) Sufficiency of information provided to students about
18 gender violence, including but not limited to
19 information regarding student rights, institutional
20 and legal reporting protocols, and on- and off-campus
21 student support services;

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23 (4) Legislation enacted in other states to strengthen
24 protections for survivors of campus-based sexual
25 violence, including chapter 188-H, New Hampshire
26 Revised Statutes, and chapter 337 of the Acts of 2020
27 of the Commonwealth of Massachusetts;

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29 (5) Recommendations contained in "The Complexities of
30 Enforcing Title IX and Related Laws: Past History,
31 Current Status, and Future Directions", which was
32 published by the Legislative Reference Bureau in 2019;
33 and

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35 (6) Strategies for improving protections for transgendered
36 students in Hawaii's public schools; and

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38 BE IT FURTHER RESOLVED that the members of the Act 110
39 Implementation Task Force serve without compensation; and

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41 BE IT FURTHER RESOLVED that the Act 110 Implementation Task
42 Force is requested to work with student organizations, such as



1 the Associated Students of the University of Hawaii, to obtain
2 feedback from survivors of campus-based sexual violence in the
3 course of its deliberations; and
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5 BE IT FURTHER RESOLVED that the Act 110 Implementation Task
6 Force is requested to submit a report of its findings and
7 recommendations, including any proposed legislation, no later
8 than twenty days prior to the convening of the Regular Session
9 of 2022; and
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11 BE IT FURTHER RESOLVED that certified copies of this
12 Resolution be transmitted to the Governor; Attorney General;
13 Executive Director of the Hawaii Civil Rights Commission;
14 President of the University of Hawaii System; Superintendent of
15 Education; Executive Director of the Hawaii State Commission on
16 the Status of Women; Board President of the American Association
17 of University Women of Hawaii; System Coordinator for the
18 Prevention, Awareness, and Understanding Violence Program of the
19 University of Hawaii; Executive Director of the Hawaii Coalition
20 to End Domestic Violence; Executive Director of the Sex Abuse
21 Treatment Center; and Co-Executive Directors of the Every Voice
22 Coalition.

