



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 1775, H.D. 2, S.D. 1, RELATING TO CIVIL RIGHTS.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS AND ON JUDICIARY

DATE: Tuesday, April 5, 2022 **TIME:** 10:05 a.m.

LOCATION: State Capitol, Room 211 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Anne T. Horiuchi,
Deputy Attorney General, at 808-586-1255)

Chairs Dela Cruz and Rhoads and Members of the Committees:

The Department of the Attorney General (Department) provides the following comments.

The bill requires entities with state educational programs or activities, or that receive state funding for educational programs or activities, to adopt written policies and undertake other specified actions no later than January 1, 2023, to ensure better compliance with chapter 368D, Hawaii Revised Statutes. The bill also requires an annual report to the Legislature by each state educational program or activity and appropriates funds to the Department of Education and the State Public Charter School Commission.

The Department notes that the Biden administration is currently working on amending federal regulations on this very subject. On February 17, 2022, the U.S. Department of Education (USDOE) sent the draft of its proposed amendments to the regulations implementing Title IX of the Education Amendments of 1972 (Title IX regulations) to the Office of Information and Regulatory Affairs (OIRA). OIRA is part of the Office of Management and Budget responsible for coordinating the review of all executive branch regulations. USDOE's next step in revising the Title IX regulations will be the Notice of Proposed Rulemaking, where the public can review and comment on the proposed revised regulations. The Department further notes that, in a December 10, 2021 press release, the USDOE stated that it anticipated issuing a

Notice of Proposed Rulemaking by April 2022 (<https://www.ed.gov/news/press-releases/statement-us-department-education-assistant-secretary-office-civil-rights-catherine-lhamon-title-ix-update-fall-2021-unified-agenda-and-regulatory-plan>).

Given what is occurring at the federal level regarding the Title IX regulations, it may be advisable to wait for the adoption of the final rules to ensure that the State statutes and rules are consistent with the federal regulations.

Thank you for the opportunity to provide our comments.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means and
Senate Committee on Judiciary
April 5, 2022 at 10:05 a.m.

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

HB 1775 HD2 SD1 – RELATING TO CIVIL RIGHTS

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the committees:

Thank you for the opportunity to present testimony in support of HB 1775 HD2 SD1 – Relating to Civil Rights. HB 1775 HD2 SD1 requires covered entities to designate a Title IX coordinator and adopt written policies no later than January 1, 2023; requires annual reports to the Legislature; and establishes three positions (3.0 FTE) within the University System to assist with the implementation of the provisions of this bill.

The University shares the Legislature's desire to implement policies and procedures that prevent and address sex discrimination and gender-based violence and create an educational environment that enhances safety and advances gender equity. As Title IX celebrates its 50th year of existence in June 2022, the framework and scope continue to evolve and expand. Accordingly, the University appreciates the overall policy guidance and objectives provided by this bill, which will allow educational institutions to develop the specific details of policies and procedures as part of their internal governance structure and through engagement with stakeholders and community members. This allows the University to further refine its policies and procedures over time and continue to align with best practices. Additionally, the University appreciates the three positions (3.0 FTE) established by this bill to meet the continued demand for expertise in the ever-expanding legal arena of Title IX. These positions will assist with ensuring competency and consistency systemwide in the implementation of all state and federal laws related to sex discrimination.

Thank you for the opportunity to testify on HB 1775 HD2 SD1. The University looks forward to continuing our work with the Legislature and the Women's Legislative Caucus in support of a safe and nondiscriminatory campus environment.

DAVID Y. IGE
GOVERNOR



JOHN S.S. KIM
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

FOR: HB1775 HD2 SD1 Relating to Civil Rights
DATE: April 5, 2022
TIME: 10:05 A.M.
COMMITTEE: Committee on Judiciary & Committee on Ways & Means
ROOM: Conference Room 211 & Videoconference
FROM: Yvonne Lau, Interim Executive Director
State Public Charter School Commission

Chair Rhodes, Chair Dela Cruz, Vice Chair Keohokalole, Vice Chair Keith-Agaran, and members of the Committees:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in **SUPPORT of HB 1775 HD2 SD1** which requires entities with state education programs or activities, or that receive state funding for educational programs or activities, to adopt written policies and undertake other specified actions no later than 1/1/2023. Requires annual reports to Legislature. Appropriates funds.

The Commission thanks the House and Senate committees for provide funding for a Title IX position as had been provided to the Hawaii Department of Education in past legislative sessions in order to meet the compliance, training and reporting requirements of this bill. Our public charter schools currently do not have access to the Department of Education’s Civil Rights Compliance Branch for training, compliance monitoring or investigations into such matters. Each public charter school is expected to meet these requirements individually and often rely on the advice of their Deputy Attorney Generals for assistance. The Commission is grateful for your consideration of these operational and capacity issues to be address for our public charter schools so that the intent of this bill can be met.

Title IX is an extremely important law that must be followed to ensure equity and access to girls and women in our public charter schools.

Thank you for the opportunity to provide this testimony.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 04/05/2022

Time: 10:05 AM

Location: CR 016 & Videoconference

Committee: Senate Ways and Means
Senate Judiciary

Department: Education

Person Testifying: Keith T. Hayashi, Interim Superintendent of Education

Title of Bill: HB 1775, HD2, SD1 RELATING TO CIVIL RIGHTS.

Purpose of Bill: Requires entities with state education programs or activities, or that receive state funding for educational programs or activities, to adopt written policies and undertake other specified actions no later than 1/1/2023. Requires annual reports to Legislature. Appropriates funds. Effective 7/1/2050. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) supports the intent of HB 1775 HD2, SD1, which specifies additional forms of sex discrimination and other prohibited conduct, as well as requires the Department to adopt written policies, undertake other specified enforcement actions, and requires annual reports to the Legislature, but respectfully offers comments on the proposed bill.

The Department is deeply committed to Title IX of the Educational Amendments of 1972 (Title IX) and the tenets that it upholds. The Department currently has in place interim procedures that reflect the 2020 revisions to the federal Title IX requirements to address reports and complaints of sexual harassment. The Department recognizes that the 2020 revisions to the federal Title IX regulations have raised the criteria for what types of conduct would constitute sexual harassment under Title IX and would be addressed per the due process steps indicated in the 2020 revisions.

To ensure that reports of sexually harassing conduct that does not fall within the federal Title IX regulations are appropriately addressed, the Department has utilized other applicable rules and policies. Specifically, Chapter 19 of Title 8 of the Hawaii Administrative Rules is used primarily for situations where both the complainant and the

respondent are students; Chapter 89 of Title 8 of the Hawaii Administrative Rules and Board of Education Policy 305-10 are utilized for situations where the complainant is a student, and the respondent is an employee, and Board of Education Policy 900-1 is utilized for situations where both the complainant and the respondent are employees.

The Department supports the intent of reporting requirements covered under the proposed bill to the legislature and appreciates the delayed effective date. The delay will provide the Department time to research and procure a secure case management system and make any changes necessary to the Department's current Student Information System to address the data reporting proposed by the bill.

The Department appreciates the Legislature's efforts to ensure that all reports of sexual harassment are appropriately addressed and looks forward to working with the Legislature to achieve this goal.

Thank you for this opportunity to provide testimony on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS
ON
HOUSE BILL NO. 1775, H.D. 2, S.D. 1

**April 5, 2022
10:05 a.m.
Room 211 and Videoconference**

RELATING TO CIVIL RIGHTS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1775, H.D. 2, S.D. 1, adds four new sections to Chapter 368D, HRS, to: 1) require entities with State education programs or activities, or that receive State funding for educational programs or activities, to adopt written policies and undertake other specified actions relating to Title IX of the Education Amendments of 1972 (Title IX) no later than January 1, 2023; 2) require annual reports to the Legislature on the number and types of Title IX cases received; 3) establish 3.00 full-time equivalent (FTE) positions within the University of Hawai'i and appropriate to the Department of Education an unspecified amount of general funds for FY 23 to carry out the purposes of this measure; and 4) appropriate to the State Public Charter School Commission an unspecified amount of general funds for FY 23 to hire 1.00 FTE position to ensure compliance by public charter schools with Title IX.

B&F notes that, with respect to the general fund appropriations in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that

states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

Tuesday, April 5, 2022, 10:05 a.m.
Via Videoconference, and Conference Rm 016

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Members of the Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Senate Committee on Ways and Means

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 1775, H.D.2, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports H.B. No. 1775, H.D.2, S.D.1, with a strong concern over the bill’s statutory mandate that in any conflict between the state Title IX corollary, HRS Chapter 368D, and federal Title IX law, federal law shall prevail. The HCRC’s concern is highlighted on pages 4-6 of this testimony.

H.B. No. 1775, H.D.2, S.D.1, amends H.R.S. Chapter 368D, by adding a purpose section in Chapter 368D that clarifies the scope of the state law corollary to the Federal Title IX law. In

Section 1 of the bill, the Legislature makes a finding that, “[p]ursuant to the exclusive jurisdiction of the legislature to identify laws of statewide concern, granted under article X, section 6, of the Hawaii State Constitution, the legislature ... finds that the prohibition of discrimination on the basis of sex, including gender identity or expression, or sexual orientation, is a matter of statewide concern.”

The bill also adds new sections to Chapter 368D that require covered entities (entities that have an educational program or activity that receives state financial assistance, in any amount, for any purpose) to adopt written policies and undertake specified enforcement action, and for state educational programs or activities (UH, DOE, and public charter schools) to submit annual reports to the Legislature.

Act 110, L 2018, established a state corollary to Title IX by adding a new chapter to Title 20 of the Hawai‘i Revised Statutes, now HRS chapter 368D, prohibiting discrimination based on sex, including gender identity or expression, or sexual orientation in any state educational program and activity or educational program or activity that receives state financial assistance. H.B. No. 1775, H.D.2, S.D.1, provides a framework for enforcement of the state Title IX corollary.

H.B. No. 1775, H.D.2, S.D.1, provides students protection against sex discrimination, including sexual harassment and sexual assault, similar to the protections provided for employees under federal and state fair employment laws, Title VII and H.R.S. Chapter 378, Part I, respectively. In doing so, it provides needed protections for the most vulnerable to harm, for the purpose of providing a safe learning environment free of sex discrimination, that provides all with an equal opportunity to succeed without regard to sex, including gender identity or expression, or sexual orientation.

H.B. No. 1775, H.D.2, S.D.1, maintains the standing of persons, organizations, and

associations under H.R.S. § 368D-1 to file complaints alleging violations of Chapter 368D. It also continues to provide that nothing in Chapter 368D precludes an individual participating in a covered educational program or activity from filing a civil action in court. **The HCRC suggests that the statute should also provide for the award of attorney’s fees and costs to a prevailing complainant.**

On March 8, 2021, President Biden signed an Executive Order expressing a policy commitment that all students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, which encompasses sexual violence, and including discrimination on the basis of sexual orientation or gender identity, and ordering a review of all regulations, orders, guidance documents, policies, and agency actions that are inconsistent with that commitment. To that effect, the USDOE is expected to release proposed amended regulations in 2022 to reverse Trump administration USDOE regulations that gutted such protections.

Shifting federal interpretation and enforcement of Title IX protections against sex discrimination, with about-face turns in conflicting rules, guidance, and executive actions and orders, serve to highlight the need for strong state law and the legislature’s wisdom in enacting the state law corollary to Title IX. Here, as a historical theme in Hawai‘i civil rights lawmaking, federal law is a “floor” beneath which state law protections against discrimination cannot drop, rather than a “ceiling” above which state law protections cannot rise. California Federal Sav. and Loan Ass’n v. Guerra, 479 US 272, 290-292 (1987).

The state Title IX corollary is only effective if it sets a high state standard protecting against discrimination, and the new, amended H.R.S. Chapter 368D should not automatically hew to shifting federal standards.

Concern: Bill Mandates That Federal Law Shall Prevail in Any Conflict with State Law

The purpose/scope/construction language found in the new H.R.S. § 368D-__ (b), at the beginning of Section 2 of the S.D.1 is cause for concern, where it states: **“(b) If any conflict arises between applicable mandatory federal requirements under Title IX and any state law requirements, the federal requirements shall prevail.”** This language regarding statutory construction is apparently meant to resolve conflicts between state law requirements and USDOE federal policy and procedure mandates under Title IX.

The purpose of the state Title IX corollary, enacted as Act 110 in 2018, was to backstop against the evisceration of federal Title IX standards by Trump administration USDOE regulations that gutted Title IX protections, and it would be contrary to the purpose of the state Title IX law to expressly concede that in any conflict between (federal) Title IX and state law requirements, federal law shall prevail. This arguably creates a state standard that shifts, ebbs and flows with changing federal law, administrations, regulations, and decisions interpreting federal law – as we have seen with the fundamental changes to federal Title IX law from the Obama administration to the Trump administration, now to the Biden administration, and to who knows what’s next.

It is not clear what issue or problem this broad conflict provision is meant to address.

The concerning bill language should be deleted or more narrowly focused on whatever it is meant to accomplish, or the intent of that language should be addressed in the legislative history – to clarify the legislature’s intent to establish a strong(er) state corollary to the federal Title IX law – consistent with the basic principle that when it comes to civil rights laws, federal law is a “floor” beneath which state law protections against discrimination cannot drop, not a “ceiling” above which state law protections cannot rise.

TWO EXAMPLES OF CONFLICT: PROTECTION AGAINST SEXUAL HARASSMENT OF STUDENTS; AND RELIGIOUS EXEMPTION

1) As an example of an arguable "conflict" that should not automatically be controlled by a bad federal standard, consider the federal interpretation of Title IX to the effect there is no private right of action for monetary damages under Title IX for a teacher's sexual harassment of a student in the absence of a showing of actual notice to and deliberate indifference on the part of a school district. *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998). Under HRS 368D-1(b) as amended by HB 1775, HD2: "(b) Nothing in this chapter shall preclude [a student] an individual participating in any educational program or activity who is aggrieved by a violation of this chapter from filing a civil action in a court of competent jurisdiction."

With the proposed statutory language expressly making federal requirements the prevailing standard if any conflict with state law arises, would a student have a private right of action for sexual harassment by a teacher, absent a showing of actual notice and deliberate indifference on the part of DOE or UH? If the legislature intends to provide vulnerable students the same protections against sexual harassment provided for employees, those protections could arguably be denied based on a blanket statutory recognition that federal law prevails in case of a conflict.

And,

2) Title IX provides for a statutory exemption for educational institutions that are controlled by a religious organization. Historically, it has been well-established and understood that the Title IX statutory religious exemption was a *narrow* religious exemption. The Trump Administration promulgated regulations eviscerating that well-established understanding, by expanding and adding to the factors considered in determining whether a school is "controlled by a religious institution," and eliminating the requirement that schools invoking the religious exemption do so in writing, gutting protections for women and LGBTQ+ students.

The scope and application of the Title IX religious exemption is the subject of ongoing litigation in *Hunter, et al., v. U.S. Department of Education*, Case No. 6-21-cv-00474-AA, United States District Court for the District of Oregon. The State of Oregon, by its Attorney General Ellen Rosenblum, submitted an amicus curiae brief in support of the Plaintiffs, joined by 18 other states, including the State of Hawai`i, by its then-Attorney General Clare Conners.

The State of Hawai`i should not concede that the Title IX religious exemption federal standard that is the subject of current legal challenge and litigation shall prevail if in conflict with stronger state standards, in contravention of the sound legal position taken and strong policy statement made by the State of Hawai`i joining in the State of Oregon amicus curiae brief.

CONCLUSION

If the concerning blanket conflict provision mandating that federal Title IX law shall prevail in any conflict with state law is deleted, or more narrowly focused and its intent clarified, the HCRC supports H.B. 1775, H.D.2, S.D.1.



To: Senate Committee on Ways and Means and Senate Committee on Judiciary
Hearing Date/Time: April 5, 2022 10:05AM
Re: Testimony in SUPPORT of HB1775 HD2 SD1

Dear Chair Dela-Cruz, Vice Chair Keith-Agaran, Chair Rhoads, Vice-Chair Keohokalole, and the Members of Committees,

Members of AAUW of Hawaii thank you for this opportunity to testify in support of HB1775 HD2 SD1 which would require schools and education programs that receive state funds to adopt written policies and undertake other specified enforcement actions; require annual reporting to the legislature on the number and types of Title IX cases and other relevant information.

While we appreciate that this measure is moving along, we are concerned that without specifying additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS, many sexual harassment and assault reports will be ignored, violating equal access to education, violating Title IX. For example, harassment from faculty advisors too often leads to students dropping out of PhD programs. **Please restore the "Definition" section in the original language OR at least expand the definition of sexual harassment under Chapter 368D, HRS, as California did in 2019 with California Senate Bill 493.**

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Since the passage of this landmark civil rights law, opponents have sought to weaken it. In 2017, the U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX requires schools to prevent and address sexual harassment and violence and to protect transgender students. In 2018, Hawaii passed Act 110 which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, or gender expression, in any state educational program or activity. We are especially proud that Hawaii was the first state to do so. Then, in May 2020, the Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX.**



According to AAUW's research "Crossing the Line":

- o Two out of three college students and nearly half of the students in grades 7-12 experience sexual harassment
- o More than 11% of all students experience sexual assault but only 20% of female students report to the authorities.

According to the 2019 UH climate survey,

- o 12.7% of students experienced sexual harassment
- o 10.6% experienced stalking
- o 21.3% experienced dating or domestic violence
- o and 7.2% experienced non-consensual sexual contact

Note that there was a 37% increase in sexual harassment between 2015 and 2019 according to UH climate surveys.

These numbers unfortunately represent an increase over the responses from the 2017 UH climate survey.

According to the 2019 CDC Youth Risk Behavior Survey,

- o 13.1% of high school students were electronically bullied
- o 17% were bullied on school property
- o 10.8% experienced non-consensual sexual contact,
- o and 8.6% experienced physical dating violence.

We need Hawaii State Corollary providing Title IX enforcement for all students and protections for student survivors of harassment and violence.



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 Oahu. UH Hilo, UH Manoa, 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.

Please restore the "Definition" section in the original language OR at least expand the definition of sexual harassment under Chapter 368D, HRS, as California did in 2019 with California Senate Bill 493. Please do so so no student needs to drop out of school because of sexual harassment or assault by their peers and their faculty.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Younghee Overly".

Younghee Overly
Public Policy Chair, AAUW of Hawaii
publicpolicy-hi@aauw.net



To: Senate Committee on Ways and Means and Senate Committee on Judiciary
Hearing Date/Time: April 5, 2022 10:05AM
Re: Testimony in SUPPORT of HB1775 HD2 SD1

Dear Chair Dela-Cruz, Vice Chair Keith-Agaran, Chair Rhoads, Vice-Chair Keohokalole, and the Members of Committees,

Members of Hawaii State Democratic Women's Caucus thank you for this opportunity to testify in support of HB1775 HD2 SD1 which would require schools and education programs that receive state funds to adopt written policies and undertake other specified enforcement actions; require annual reporting to the legislature on the number and types of Title IX cases and other relevant information.

While we support HB1775 HD2 SD1, we are concerned that without specifying additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS, many sexual harassment and assault reports will be ignored, violating equal access to education, violating Title IX. For example, harassment from faculty advisors too often leads to students dropping out of PhD programs. **Please restore the "Definition" section in the original language OR at least expand the definition of sexual harassment under Chapter 368D, HRS, as California did in 2019 with California Senate Bill 493.**

On June 23, 2022, we will celebrate the 50th anniversary of the Patsy T. Mink Equal Opportunity in Education Act also simply known as Title IX. Since the passage of this landmark civil rights law, opponents have sought to weaken it. In 2017, the U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX requires schools to prevent and address sexual harassment and violence and to protect transgender students. In 2018, we were so proud that Hawaii passed Act 110 which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, or gender expression, in any state educational program or activity. We are so proud that Hawaii was the first state to do so.

Then, in May 2020, the U.S. Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii also needs to codify the enforcement of Title IX.**



Please restore the "Definition" section from the original language and pass this important measure to ensure Title IX protects all students in Hawaii from discrimination, harassment and assault based on their sex as our late congressman Patsy T Mink intended.

Thank you for your consideration.

Sincerely,

Members of Hawaii State Democratic Women's Caucus

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls.



Hawaii Women's Coalition

To: Senate Committee on Ways and Means and Senate Committee on Judiciary
Hearing Date/Time: April 5, 2022 10:05AM
Re: Testimony in SUPPORT of HB1775 HD2 SD1

Dear Chair Dela-Cruz, Vice Chair Keith-Agaran, Chair Rhoads, Vice-Chair Keohokalole, and the Members of Committees,

Members of Hawaii Women's Coalition thank you for this opportunity to testify in support of HB1775 HD2 SD1 which would require schools and education programs that receive state funds to adopt written policies and undertake other specified enforcement actions; require annual reporting to the legislature on the number and types of Title IX cases and other relevant information.

While we appreciate that this measure is moving along, we are concerned that without specifying additional forms of discrimination and other prohibited conduct under Chapter 368D, HRS, many sexual harassment and assault reports will be ignored, violating equal access to education, violating Title IX. For example, harassment from faculty advisors too often leads to students dropping out of PhD programs. **Please restore the "Definition" section in the original language OR at least expand the definition of sexual harassment under Chapter 368D, HRS, as California did in 2019 with California Senate Bill 493.**

In May 2020, the federal Department of Education announced changes to Title IX rules, rolling back important protections for student survivors of sexual harassment and assault. These new rules went into effect in August 2020. **Hawaii needs to codify the protections for student survivors of sexual harassment and assault. Hawaii needs to codify the enforcement of Title IX.**

Please restore the "Definition" section in the original language and pass this important measure to ensure Title IX protects all students in Hawaii from discrimination, harassment and assault based on their sex as our late congressman Patsy T Mink intended.

The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

Thank you and with Aloha,

Members of Hawaii Women's Coalition

HB-1775-SD-1

Submitted on: 4/1/2022 9:21:29 PM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Rainbow Family 808	Support	Written Testimony Only

Comments:

Rainbow Family 808 supports HB1775. Please pass this bill. Thanks.

Mike Golojuch, Sr., Secretary/Board Member, Rainbow Family 808

HB-1775-SD-1

Submitted on: 4/2/2022 6:58:20 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Testifying for Stonewall Caucus of the Democratic Party of Hawaii	Support	Written Testimony Only

Comments:

Aloha Senators,

The Stonewall Caucus of the Democratic Party of Hawai'i (formerly the LGBT Caucus) fully supports HB 1775 HD 2 SD 1.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

HB-1775-SD-1

Submitted on: 4/2/2022 8:52:54 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Rosemarie Muller	Testifying for LWVH	Support	Written Testimony Only

Comments:

The LWV of Hawaii supports this bill HB 1775, relating to civil rights.

Thank you

Rosemarie Muller, VP LWV of Hawaii

HB-1775-SD-1

Submitted on: 4/4/2022 6:33:57 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Rachel Kuenzi	Testifying for Planned Parenthood Alliance Advocates	Support	Written Testimony Only

Comments:

Planned Parenthood Alliance Advocates supports HB 1775 to ensure compliance with Title IX and provide Hawaii's students with safe campuses and non-discriminatory treatment.

HB-1775-SD-1

Submitted on: 4/1/2022 5:10:38 PM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Lea Minton	Individual	Support	Written Testimony Only

Comments:

Dear Chari Rhoads and Committee on Judiciary, and Chair Dela Cruz and Committee on Ways and Means,

Thank you for this opportunity to testify in strong support of HB1775HD2SD1.

Mahalo,

Le'a Minton

Hearing Date: April 5, 2022
10:05 am, Room, 211 & Via Videoconference

To: Senate Committee of Judiciary
Chair, Senator Karl Rhoads
Vice Chair, Senator Jarrett Keohokalole

Senate Committee of Ways and Means
Chair, Senator Donovan M. Dele Cruz
Vice Chair, Senator Gilbert S.C. Keith-Agaran

From: Jean Evans, MPH (Individual, jevans9999@yahoo.com,

Re: TESTIMONY IN SUPPORT OF HB 1775, HD2, SD1 Relating to Civil Rights

My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies and received both my baccalaureate and graduate degrees from the University of Hawaii at Manoa.

I am in strong support of HB 1775, HD2 which will codify the protections for student survivors of sexual harassment and assault and the enforcement of all aspects of Title IX.

The previous federal administration's decision to reverse the federal government's active stance on upholding the investigation of campus sex assaults and harassment was very troublesome. Discrimination based on sexual orientation and gender identity can lead to overt bullying, and ultimately unequal educational opportunities. The college experience is a time where students expand their knowledge and prepare for careers. It can also be a stressful time especially if young women and transgender students are fearful. While the current administration has made strides to stand by the Title IX requirements, there is not guarantee that future administrations will do so.

I believe this bill will help assure that Hawaii continues to remain a leader in civil rights and follow in the footsteps of Patsy T. Mink in this 50th anniversary year of the passing of Title IX. It is imperative that Hawaii puts into law the protections of Title IX.

Mahalo for allowing me to submit my testimony today.

HB-1775-SD-1

Submitted on: 4/2/2022 2:18:52 PM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Caroline Kunitake	Individual	Support	Written Testimony Only

Comments:

Dear Chair Karl Rhoads, Vice Chair Jarrett Keohokalole, Committee on Judiciary, Chair Donovan M. Dela Cruz, Vice Chair Gilbert S.C. Keith-Agaran, and Committee on Ways and Means,

My name is Caroline Kunitake and I am a resident of Honolulu, HI. All students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking in our schools and universities.

I am concerned that without the expansion of what sexual harassment is under the new Title IX rules, many sexual harassment reports will be ignored. Harassment from faculty advisors too frequently leads to students dropping out of PhD programs. Please consider putting the expansion of definition back into the bill.

During graduate school at Loma Linda University in California, I was stalked by a mentally ill gentleman for over five months. He left gifts at the dorm front desk. He constantly called the phone in my room and I requested to have my phone number changed. He sent love letters stating that "God destined us to be together." Although I had issued a temporary restraining order against him, he didn't understand what the temporary restraining order was for and continued to visit the dorm where I resided. You can't stop a crazy person from stalking you because they aren't afraid of guards, police officers, prison or the law.

It was an eye opening experience. I found it challenging to maintain a high GPA while being physically safe on campus. I needed to adjust my routine (change up my schedule so that he couldn't predict when I would be walking back to the dorm), make sure that all the routes that I took on foot had other people present and that I constantly carried a charged cell phone so that I could contact someone if I was in trouble. I was relieved emotionally, physically and mentally when the stalking stopped. I'm so grateful for the friends, instructors and community leaders who helped me while I was his target. I was away from home and I didn't have family members for support. My graduate program was only a year long, so I hustled as much as I could to make new friends and find allies to act as my temporary family. I was incredibly lucky that I was not sexually or physically assaulted and I graduated with honors from the graduate program.

Later I learned that my stalker had sexually harassed and stalked other women. I wasn't his first target, but I was the only target that had enough courage to report him to the police so that he

would have some sort of police records. I'm sure that the majority of the sexual assaults, sexual harassments and stalkings go unreported on campus because it takes a lot of time and energy away from study. Also a survivor may feel fear, shame and potential retribution if the aggressor has a position of authority and/or significant resources to fight a legal battle.

While attending college as an undergraduate student, I did have a roommate who was sexually assaulted in our dorm room at Frear Hall at the University of Hawaii at Manoa. The experience was traumatizing for her. After the sexual assault, I would find her in our room banging her head against the wall, struggling with post traumatic stress disorder and deciding whether or not to continue with school. She was an out of state student and longed to be near her family. By the end of the semester, she decided to attend school in her home state. Before she was sexually assaulted, she was a very carefree, bubbly person. After the sexual assault, her personality and perspective changed to adapt to her new reality as a sexual assault survivor. I have no doubt that she was continually haunted by the violent attack.

Please support HB1775 HD2 SD1. We need to improve the Hawaii State Corollary providing Title IX enforcement and protections for student survivors of sexual harassment and assault.

One day, these laws will be protecting your spouse, children, cousins and friends.

Mahalo,

Caroline Kunitake

HB-1775-SD-1

Submitted on: 4/2/2022 9:06:50 PM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Hansen	Individual	Support	Written Testimony Only

Comments:

Please support this essential bill.

Mahalo,

Elizabeth Hansen

Registered voter,

Hakalau HI 96710

HB-1775-SD-1

Submitted on: 4/2/2022 9:20:50 PM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Rodger Hansen	Individual	Support	Written Testimony Only

Comments:

Please support this essential bill.

Mahalo,

Rodger Hansen

Hakalau HI 96710

HB-1775-SD-1

Submitted on: 4/3/2022 11:56:46 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruth C Carlson	Individual	Support	Written Testimony Only

Comments:

I support HB 1775 to preserve Title IX rights in Hawaii and the U S.

HB-1775-SD-1

Submitted on: 4/4/2022 9:09:17 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Laura Hughes	Individual	Support	Written Testimony Only

Comments:

I support the strengthening of title nine.

HB-1775-SD-1

Submitted on: 4/4/2022 9:13:22 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Anna Ezzy	Individual	Support	Written Testimony Only

Comments:

Testimony of Anna Ezzy

Dear Chairpersons and members of the Committees,

My name is Anna Ezzy, I am an incoming graduate student at the University of Hawai'i at Hilo and resident of Haiku, Maui and I am asking you to SUPPORT HB1775.

In 2021, female graduate and professional school students at UH reported the highest prevalence of experiencing sexual harassment at any time while enrolled at 17.5%. We desperately need the information reporting included in HB1775 to understand how sexual violence cases are being managed by the administration - especially given the historical propensity for victim-blaming within institutions. If I was to be the almost 2 in 10 of my female graduate classmates that will experience sexual violence on campus, will the options and resources I'd need be there for me?

This bill will allow us to catch key data points on how the Title IX system is currently functioning by requiring annual reporting on the number and types of cases. While great strides have been made for women and girls for equal access in education, the lack of enforcement of Title IX maintains widespread gender-based harassment, sexual assault, dating violence, domestic violence, and stalking in our public schools and universities. We need a Hawai'i State Corollary providing Title IX enforcement and protections for student survivors of sexual harassment and assault. Mahalo for hearing this important bill and please pass it.

Mahalo nui,

Anna Ezzy

HB-1775-SD-1

Submitted on: 4/4/2022 9:22:34 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Nikki-Ann Yee	Individual	Support	Written Testimony Only

Comments:

Mahalo for the opportunity to testify in support of House Bill 1775, relating to civil rights. I stand in support of the measure because all students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence and stalking in our schools and universities. While I'm excited that this bill is moving along, I am concerned that without the expansion of what sexual harassment is under the new Title IX rules, many sexual harassment reports will be ignored. I respectfully request that the measure be amended to include the definitions sections of the original draft to ensure protection from various forms of harassment or at least expand the definition of sexual harassment as California did in 2019 with California Senate Bill 493.

HB-1775-SD-1

Submitted on: 4/4/2022 9:40:16 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Renee Rabb	Individual	Support	Written Testimony Only

Comments:

Please pass HB1775 HD2 SD1 as written. Let's do this in honor of Patsy Mink.

Renee Rabb

Keaau, TX 96749

HB-1775-SD-1

Submitted on: 4/4/2022 9:59:04 AM

Testimony for WAM on 4/5/2022 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Janet Morse	Individual	Support	Written Testimony Only

Comments:

HB 1775, HD 2, SD 1

Committee: Senate Committee on Judiciary

Chair: Senator Karl Rhoads, Vice Chair: Senator Jarrett Keohokalole

Committee: Senate Committee on Ways and Means

Chair: Senator Donovan M. Dela Cruz, Vice Chair: Senator Gilbert S.C. Keith-Agaran

Hearing Date, Time,: Tuesday, April 5, 2022, 10:05 am,

Dear Senators:

My name is Janet Morse and I am a resident of Kailua. My children attended Kailua and Kalaheo high schools in Kailua.

I support HB 1775 because I believe that all students deserve protection from gender-based discrimination, harassment, sexual assault, dating violence, domestic violence, and stalking in our schools and universities.

Rules adopted in 2016 and 2020 by the.U.S. Department of Education rescinded multiple important guidance documents, including those that had clarified what Title IX

requires schools to prevent and address sexual harassment and violence and to

protect transgender students.

Hawaii needs to codify the enforcement of Title IX. I urge you to pass this important legislation.
Mahalo.