



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 2116, S.D. 1, RELATING TO PUBLIC EMPLOYEES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 24, 2026 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Diana Sumarna,
Deputy Attorney General, at (808) 587-2900)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) strongly opposes this bill.

This bill requires the Attorney General to establish a confidential process for individuals to anonymously file complaints against public employees, serve as the intermediary for necessary communications between the appropriate department and complainant, and submit annual reports to the Legislature.

The Department appreciates the revisions made to the bill in Senate Draft 1, but this bill still has major obstacles to implementation.

In our testimony to the Senate Committee on Labor and Technology, we emphasized that a system allowing anonymous complaints could be subject to challenge under existing constitutional and statutory mandates, potentially violate collective bargaining law, and create a system for harassing public servants without accountability.

First, the bill raises due process concerns. Public employees in the civil service have a constitutionally protected property interest in their employment. Andrade v. County of Hawai'i, 145 Hawai'i 265 (2019). An anonymous complaint system that prevents employees from confronting their accusers irrespective of the circumstances or the nature of the allegations undermines the process due to civil servants and procedural safeguards.

The Hawai'i Supreme Court has emphasized that due process requires "meaningful notice of the complaints" and "an opportunity for [employees], by and through their union representatives, to respond to the complaints against them." Minton v. Quintal, 131 Hawai'i 167 (2013). When employees are not "formally provided with an exhaustive list" of complaints but only "generally provided with notice," courts scrutinize whether the overall process provided adequate protection. Id. A broad system for anonymous complaints may prevent employees from receiving the specific, detailed notice necessary to mount an effective defense, which would include the ability to challenge the credibility of their accusers.

Public employees covered by collective bargaining agreements have negotiated specific procedures that govern disciplinary matters and grievances. An anonymous complaint system that bypasses or contradicts the negotiated terms of a collective bargaining agreement, including specific notice requirements, investigation protocols, and due process protections, could constitute prohibited practices under Hawaii's collective bargaining law, which makes it unlawful for public employers to "violate the terms of a collective bargaining agreement." Section 89-13(a)(8), HRS.

A system of broad anonymity removes accountability from the complaint process, creating conditions that encourage frivolous, retaliatory, or malicious allegations. When complainants can make allegations under the cover of anonymity, irrespective of the circumstances or the nature of the case, the system becomes vulnerable to abuse.

Additionally, civil service employees who suffer adverse employment actions, but cannot grieve such actions under collective bargaining agreements, may challenge such actions in appeals to the Merit Appeals Board. In this forum, "[B]oth the appealing employee and the appointing authority shall have the right to be heard publicly, present evidence and be represented by counsel, who shall have the right to examine and cross-examine witnesses." Section 76-47(e), HRS. This right cannot be exercised if the complainant, who would be a key witness in most proceedings, remains anonymous.

Finally, implementing an anonymous complaint system would require substantial administrative infrastructure and resources. This bill obligates the Attorney General to

receive complaints from any person against any public employee, then forward the complaints to the appropriate departments, as defined in section 76-11, HRS, regardless of jurisdiction. However, each jurisdiction already has processes in place to receive complaints that are tailored to their specific jurisdictions. Importantly, each jurisdiction has processes to substantively review and resolve complaints against public employees. Anonymous complaints can make departmental investigations extraordinarily difficult when investigators cannot assess complainants' credibility, follow up on vague allegations, or obtain clarifying information. The departments' investigations can rarely be fair or thorough when the source of allegations remains hidden. Each department with public employees or the personnel department for each jurisdiction would need to develop entirely new procedures, train personnel, and allocate substantial funding to manage an anonymous complaint processing system that fundamentally conflicts with existing due process requirements.

Additionally, the bill's requirement that the Attorney General not only receive all anonymous complaints, but also assess them for specific criteria, redact all identifying information, refer them to departments in multiple jurisdictions, and serve as an intermediary for communications between the anonymous complainants and the departments, will result in Department personnel becoming involved, as witnesses, in numerous investigations and legal and administrative proceedings across the State. It would tie up resources that the Department needs to fulfill its existing statutory obligations and would likely require the funding of new positions to be able to accommodate these additional responsibilities. Thus, this bill would impose unsustainable administrative and financial burdens on the State.

We therefore respectfully ask the Committee to hold this bill. Thank you for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Third Legislature, State of Hawaii
The Senate
Committee on Judiciary

Testimony by
Hawaii Government Employees Association

February 24, 2026

S.B. 2116, S.D. 1 — RELATING TO PUBLIC EMPLOYEES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the concept of S.B. 2116, S.D. 1, which requires the Attorney General to establish a confidential process for persons to anonymously file complaints against public employees.

Each department or agency has its own process in accepting anonymous complaints – some departments or agencies have a publicly available page on their website to file an anonymous complaint against an employee. However, there is no uniform process or policy to accept and verify an anonymous complaint, there's no requirement to leave your name and contact information in-case additional follow up is necessary. This opens the door for individuals to file baseless complaints against employees while maintaining complete anonymity. While these complaints are investigated and found to be un-sustained, it still damages an employee's reputation. Furthermore, and generally, these complaints are investigated, which takes time and resources away from the employees conducting the investigation.

Additionally, we acknowledge that individuals, including employees, may be placed into circumstances where they rightly feel compelled to file a legitimate anonymous complaint, and we are supportive of having a standardize process in place for these individuals. The process as outlined in this measure begins the conversation about establishing a balanced approach in verifying an anonymous complaint to discourage against baseless complaints that harm an employee's reputation, but also a uniformed process aimed at still protecting the anonymity of individuals that rightfully choose to file a legitimate anonymous complaint.

Thank you for the opportunity to provide testimony in support of S.B. 2116, S.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

THE SENATE
KA 'AHA KENEKOA

THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2026

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, February 24, 2026, 10:00 AM
Conference Room 016 & Videoconference

Re: Testimony on SB2116, SD1 – RELATING TO PUBLIC EMPLOYEES

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 12,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

UPW **strongly supports** SB2116, which requires the Attorney General to establish a confidential process for persons to anonymously file complaints against public employees.

The lack of a uniform process or policy for agencies to receive and verify anonymous complaints has created a system susceptible to abuse. Because there is no requirement to provide contact information, or even sufficient information that an employee has the contractual right to refute, these complaints can exhaust time and resources. In some situations, an employee can be put on administrative leave pending an investigation, which, even if the allegation proves to be meritless, can tarnish their reputation in the workplace.

While we recognize that anonymity is often necessary for legitimate complaints, we believe the standardized process proposed in this measure strikes a balance between receiving valid complaints and discouraging frivolous ones.

Mahalo for this opportunity to testify in support of this measure.

HEADQUARTERS

1426 North School Street
Honolulu, Hawaii 96817-1914
Phone 808.847.2631

HAWAII

362 East Lanikaula Street
Hilo, Hawaii 96720-4336
Phone 808.961.3424

KAUAI

2970 Kele Street, Suite 213
Lihue, Hawaii 96766-1803
Phone 808.245.2412

MAUI

841 Kolu Street
Wailuku, Hawaii 96793-1436
Phone 808.244.0815

1.866.454.4166

Toll Free - Molokai/Lanai only