
A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII BOARD OF REGENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the board of
2 education has begun to webcast live streaming audio of its
3 meetings. The University of Hawaii board of regents, however,
4 has not instituted a similar practice with respect to its
5 meetings.

6 The legislature further finds that when the Americans with
7 Disabilities Act was signed into law in 1990, webcasting and
8 streaming video were not significant aspects of the cultural
9 milieu in the United States. In 2010, a lawsuit was brought
10 against Netflix by the National Association of the Deaf,
11 alleging that Netflix was discriminating against deaf and hard-
12 of-hearing viewers under the Americans with Disabilities Act
13 because not all of their online streaming video had closed
14 captions. The defendant argued that their business practices
15 fell under the 21st Century Communications and Video
16 Accessibility Act instead of the Americans with Disabilities
17 Act. The court found that these two laws are not mutually



1 exclusive. Compliance with the 21st Century Communications and
2 Video Accessibility Act does not necessarily preclude potential
3 legal action based on possible violations of Americans with
4 Disabilities Act. As part of a consent decree, Netflix agreed
5 to caption one hundred per cent of their video beginning in
6 2014. Because the case was settled by means of a consent decree
7 rather than a judicial ruling, there remains room for a
8 difference of legal opinion on the matter of online media
9 content accessibility under the Americans with Disabilities Act.

10 The purpose of this Act is to require the board of regents
11 to:

12 (1) On May 1, 2021, begin livestreaming audio and
13 archiving on its website all board of regents standing
14 committee meetings;

15 (2) On September 1, 2021, begin livestreaming video and
16 archiving on its website all board of regents
17 meetings; and

18 (3) Move expeditiously to ascertain its obligations and
19 best practices that should be implemented in complying
20 with the Americans with Disabilities Act in regard to
21 the accessibility of webcasting and streaming video



1 streaming of board of regents and board of regents
2 standing committee meetings.

3 SECTION 2. Section 304A-104, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§304A-104 Regents; appointment; tenure; qualifications;**
6 **meetings.** (a) The affairs of the university shall be under the
7 general management and control of the board of regents. The
8 board shall consist of eleven members who shall be appointed by
9 the governor from lists of qualified candidates presented to the
10 governor by the candidate advisory council, pursuant to section
11 304A-104.6, and shall be confirmed by the senate; provided that
12 if the list of qualified candidates includes fewer than three
13 candidates at any time during the nomination and confirmation
14 process, the governor may request that the candidate advisory
15 council reopen recruitment for qualified candidates. Members
16 may be removed by the governor. Except as otherwise provided by
17 law, state officers shall be eligible for appointment and
18 membership.

19 The term of each member shall be five years, except as
20 provided for the initial appointment in section 26-11; provided
21 that the term of the student member shall be two years. Every



1 member may serve beyond the expiration date of the member's term
2 of appointment as a holdover member until the member's successor
3 has been appointed by the governor and confirmed by the senate
4 in accordance with article X, section 6 of the Hawaii State
5 Constitution; provided that, notwithstanding any law to the
6 contrary, a holdover member shall not serve as a member of the
7 board beyond the end of the first regular session of the
8 legislature following the expiration of the member's term.
9 Members shall serve no more than two consecutive five-year
10 terms; provided that the members who are initially appointed to
11 terms of two years or less pursuant to section 26-11(a) may be
12 reappointed to two ensuing five-year terms. If a member is to
13 be appointed to a second term of five years, the senate shall
14 consider the question of whether to reconfirm the member at
15 least one hundred twenty days prior to the conclusion of a
16 member's first five-year term; provided that if the senate is
17 not in session within one hundred twenty days prior to the
18 conclusion of the member's first five-year term, the member
19 shall continue to serve until the senate convenes for the next
20 regular session or the next special session for which the senate
21 is authorized to consider the question of reconfirmation.



1 (b) In determining whether to confirm the governor's
2 nominee to the board of regents, the senate shall consider the
3 combination of abilities, breadth of experiences, and
4 characteristics of the board of regents, as a whole, that will
5 best serve the diverse interests and needs of the students of
6 the university system and assist the university system in
7 achieving its strategic goals and performance indicators. The
8 senate shall consider whether the board reflects the diversity
9 of the student population, the various counties of the State,
10 and a broad representation of higher education-related
11 stakeholders.

12 (c) At its first meeting after June 30 of each year, the
13 board of regents shall elect a chairperson and one or more vice-
14 chairpersons who shall serve until the adjournment of the first
15 meeting of the board of regents after June 30 of the next year,
16 or thereafter until their successors are elected; provided that
17 the chairperson and vice chairpersons shall not be elected prior
18 to the taking of office of regents whose terms shall begin on
19 July 1 of that year. The board shall appoint a secretary, who
20 shall not be a member of the board. The president of the
21 university shall act as executive officer of the board. A



1 majority of the board of regents shall constitute a quorum to
 2 conduct business, and the concurrence of a majority of all the
 3 members to which the board of regents is entitled shall be
 4 necessary to make any action of the board of regents valid. The
 5 board shall meet at least ten times annually and, from time to
 6 time, may meet in each of the counties of Hawaii, Maui, and
 7 Kauai.

8 (d) All board of regents standing committee meetings shall
 9 be:

10 (1) Recorded in live digital audio format by May 1, 2021;
 11 and

12 (2) Archived and made available to the public on the board
 13 of regents website within seventy-two hours after
 14 adjournment of the meeting;

15 provided that the board of regents shall determine its
 16 accessibility obligations under the Americans with Disabilities
 17 Act and bring its actions into compliance with the Americans
 18 with Disabilities Act.

19 (e) All board of regents meetings shall be:

20 (1) Recorded in live digital video format;

21 (2) Webcast live by September 1, 2021; and



1 (3) Archived and made available to the public on the board
2 of regents website within seventy-two hours after
3 adjournment of the meeting;
4 provided that the board of regents shall determine its
5 obligations under the Americans with Disabilities Act concerning
6 accessibility of webcasting and video streaming of its meetings
7 and bring its actions into compliance with the Americans with
8 Disabilities Act.

9 [~~d~~] (f) The governor shall notify the candidate advisory
10 council for the board of regents of the University of Hawaii in
11 writing within ten days of receiving notification that a member
12 of the board of regents is resigning or has died, or is being
13 removed by the governor.

14 [~~e~~] (g) The members of the board of regents shall serve
15 without pay but shall be entitled to their travel expenses
16 within the State when attending meetings of the board or when
17 actually engaged in business relating to the work of the board."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on June 18, 2050.



Report Title:

University of Hawaii; Board of Regents; Meetings; Public Access

Description:

Requires all public meetings of the Board of Regents to be recorded in live digital audio format by May 1, 2021, and in digital video beginning September 1, 2021. Requires all recording to be archived and made available to the public. Requires the Board of Regents to determine its accessibility obligations pursuant to the Americans with Disabilities Act and comply with those obligations. Takes effect 6/18/2050. (SD2)

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