

JAN 21 2011

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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. This Act shall be known as the Safe Schools  
2 Act.

3           SECTION 2. The legislature finds that all students have  
4 the right to participate fully in the educational process, free  
5 from bullying, cyberbullying, and harassment. A safe and civil  
6 environment in school is necessary for students to learn and to  
7 meet high academic standards. Bullying and harassment, like  
8 other disruptive or violent behaviors, are forms of conduct that  
9 disrupt both a student's ability to learn and a school's ability  
10 to educate its students in a safe environment. The legislature  
11 finds that because students learn by example, school  
12 administrators, faculty, staff, and volunteers should be  
13 expected to demonstrate appropriate behavior, treat others with  
14 civility and respect, and refuse to tolerate bullying and  
15 harassment.

16           The purpose of this Act is to require the department of  
17 education to maintain, monitor, and enforce anti-bullying and  
18 anti-harassment policies and procedures to protect students.



1 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§302A- Bullying, cyberbullying, and harassment;  
5 departmental responsibilities. (a) This section shall apply to  
6 conduct occurring on all public elementary and secondary school  
7 premises, at any school-sponsored functions or activities, and  
8 on school-sponsored transportation. This section also applies  
9 to electronic technology usage and electronic communications  
10 that occur on all public elementary and secondary school  
11 premises, at any school-sponsored functions or activities, on  
12 school-sponsored transportation, and on school computers,  
13 networks, forums, and mailing lists.

14 (b) The department shall maintain and monitor anti-  
15 bullying and anti-harassment policies that:

- 16 (1) Are applicable to grades kindergarten through twelve;  
17 and  
18 (2) Contain definitions of bullying, cyberbullying, and  
19 harassment, as defined in section 302A-101.

20 (c) The department shall maintain and enforce appropriate  
21 procedures that incorporate:



- 1        (1) Effective publicizing of the policies established  
2                    pursuant to subsection (b), including adding a  
3                    statement of those policies to new employee training  
4                    materials, student handbooks, and any other  
5                    publication that sets forth comprehensive rules,  
6                    procedures, and standards of conduct for schools;
- 7        (2) Conducting annual training at the school level on how  
8                    to promote peace and respect and how to intervene when  
9                    students are engaged in bullying, cyberbullying, or  
10                   harassing behavior;
- 11       (3) The investigation of violations of this section;
- 12       (4) Reporting and response mechanisms that address the  
13                   failure of schools, complex areas, and administrators  
14                   in implementing this section;
- 15       (5) Mechanisms for reporting incidents of bullying,  
16                   cyberbullying, and harassment by complex areas and  
17                   schools;
- 18       (6) Making available to the public statewide statistics  
19                   concerning bullying, cyberbullying, and harassment, as  
20                   defined in section 302A-101;



- 1        (7) The filing of complaints against complex areas and  
2                    schools upon their failure to comply with and  
3                    implement policies pursuant to this section;
- 4        (8) Establishing clear lines of accountability, including  
5                    the designation of one person in the department as the  
6                    primary contact regarding anti-bullying and anti-  
7                    harassment policies, who shall receive copies of all  
8                    formal and informal complaints, be responsible for  
9                    assuring the implementation of policies and procedures  
10                   pursuant this section, and serve as the primary  
11                   contact on the policies and procedures between the  
12                   school district and the department;
- 13       (9) Requiring school employees and trained volunteers who  
14                   witness incidents of bullying, cyberbullying, or  
15                   harassment, or possess reliable information that would  
16                   lead a reasonable person to suspect that a person is a  
17                   target of bullying, cyberbullying, or harassment, to  
18                   promptly report those incidents or that information to  
19                   the school principal, complex area superintendent, or  
20                   superintendent;
- 21       (10) Prompt investigation of reports or complaints of  
22                   bullying, cyberbullying, or harassment, and



- 1           identification of either the principal or the  
2           principal's designee as the person responsible for the  
3           investigation;
- 4           (11) Delineation of the range of ways in which a school  
5           will respond once an incident of bullying,  
6           cyberbullying, or harassment is identified, including  
7           a range of potential age-appropriate education-focused  
8           consequences that correspond to the prohibited  
9           bullying, cyberbullying, and harassment acts;
- 10          (12) The provision of appropriate referrals or resources to  
11          student victims, perpetrators, and their respective  
12          families, if necessary;
- 13          (13) Provisions that prohibit reprisal or retaliation  
14          against any person who reports an act of bullying,  
15          cyberbullying, or harassment and describe appropriate  
16          remedial action for a person who engages in reprisal  
17          or retaliation;
- 18          (14) Provisions that allow for anonymous reporting while  
19          clarifying that no remedial action shall be undertaken  
20          solely on the basis of an anonymous report;



1        (15) The collection, reporting, and analyzing, at least on  
2        an annual basis, of data on incidents of bullying,  
3        cyberbullying, and harassment; and

4        (16) The establishment of a school community culture that  
5        integrates the aloha spirit, evidence-based anti-  
6        bullying and anti-harassment policies and procedures,  
7        and peace promoting elements into each school's  
8        curriculum, and creates and encourages an environment  
9        of safety and respect for all.

10       (d) The department shall adopt rules pursuant to chapter  
11 91 to carry out the purposes of this section."

12       SECTION 4. Section 302A-101, Hawaii Revised Statutes, is  
13 amended by adding three new definitions to be appropriately  
14 inserted and to read as follows:

15       "Bullying" means any written, verbal, graphic, or physical  
16 act or acts that:

17       (1) A student or group of students exhibits toward another  
18       student or group of students;

19       (2) Cause mental or physical harm to the other student or  
20       group of students; and



1        (3) Are sufficiently severe, persistent, or pervasive to  
2                    create an intimidating, threatening, or abusive  
3                    educational environment.

4 Bullying includes conduct that is based on a student's actual or  
5 perceived race, color, national origin, sex, gender identity or  
6 expression, sexual orientation, physical or mental disability,  
7 religion, physical appearance and characteristic, or socio-  
8 economic status; or a student's association with a person or  
9 group with one or more of these actual or perceived  
10 characteristics.

11        "Cyberbullying" means an act or acts exhibited by one  
12 student or group of students to another student or group of  
13 students that:

14        (1) Are conveyed by electronic transmission via the  
15                    Internet, a cell phone, a personal digital assistant  
16                    (PDA), or a wireless hand-held device;

17        (2) Cause mental or physical harm to the student or group  
18 of students that receives the electronic transmission;  
19                    and

20        (3) Are sufficiently severe, persistent, or pervasive to  
21                    create an intimidating, threatening, or abusive  
22                    educational environment.



1       "Harassment" means harassing, bullying, including  
2 cyberbullying, annoying, or alarming a student or group of  
3 students by engaging in conduct that includes:

4       (1) Striking, shoving, kicking, or otherwise touching a  
5 student or group of students in an offensive manner or  
6 subjecting that student or group of students to  
7 offensive physical contact;

8       (2) Insulting, taunting, or challenging another student or  
9 group of students in a manner likely to provoke a  
10 violent response;

11       (3) Making verbal or non-verbal expressions that cause  
12 another student or group of students to feel  
13 uncomfortable, pressured, threatened, or in danger  
14 because of reasons that include the student's or  
15 group's actual or perceived race, color, national  
16 origin, sex, gender identity or expression, sexual  
17 orientation, physical or mental disability, religion,  
18 physical appearance and characteristic, and socio-  
19 economic status, or association therewith, that  
20 creates an intimidating, hostile, or offensive  
21 educational environment, or interferes with the  
22 education of a student or group of students, or





- 1           otherwise adversely affects the educational  
2           opportunity of a student or group of students;
- 3           (4) Name calling, making rude gestures, insulting, or  
4           teasing another student or group of students who, as a  
5           result, feels humiliated, intimidated, threatened, or  
6           embarrassed;
- 7           (5) Making a telephone call without the purpose of  
8           legitimate communication;
- 9           (6) Making repeated communications anonymously, at  
10           extremely inconvenient hours, or in offensively coarse  
11           language on campus or other department of education  
12           premises, on department of education transportation,  
13           or during a department of education-sponsored activity  
14           or event on or off school property;
- 15           (7) Causing fear as to prevent other students or groups of  
16           students from gaining legitimate access to or use of  
17           school buildings, facilities, services, or grounds  
18           such as restroom facilities; and
- 19           (8) Physically harming, physically restraining,  
20           threatening, or stalking, or a combination of the  
21           foregoing."



1 SECTION 5. The provisions of this Act shall be liberally  
2 construed to give effect to the purposes thereof.

3 SECTION 6. Nothing in this Act is intended to interfere  
4 with the First Amendment rights of free speech and expression of  
5 any person affected.

6 SECTION 7. If any provision of this Act, or the  
7 application thereof to any person or circumstance is held  
8 invalid, the invalidity does not affect other provisions or  
9 applications of the Act, which can be given effect without the  
10 invalid provision or application, and to this end the provisions  
11 of this Act are severable.

12 SECTION 8. New statutory material is underscored.

13 SECTION 9. This Act shall take effect upon its approval.  
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**Report Title:**

Keiki Caucus; Safe Schools Act; Bullying

**Description:**

Requires the department of education to maintain, monitor, and enforce anti-bullying and anti-harassment policies and procedures to protect students or groups of students from bullying, cyberbullying, and harassment.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

