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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF EDUCATION.

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

1           SECTION 1. The legislature finds that teachers are very  
2 important because of their impact on the lives of our youth.  
3 The legislature also finds that there are increasing numbers of  
4 substance abusers in all professions and careers. Currently,  
5 there are many state employees who are subject to random  
6 substance abuse tests, and other states have already implemented  
7 random substance abuse testing for their teachers.

8           The purpose of this Act is to require the department of  
9 education to develop procedures and annually administer random  
10 substance abuse testing for not less than, ten per cent of all  
11 teachers and teacher trainees employed by the department of  
12 education.

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

16           "§302A-       Salaried teachers and teacher trainees in any  
17 public school; reasonable suspicion and random testing;  
18 sanctions; substance abuse assessment. (a) The department



1 shall develop procedures for reasonable suspicion and random  
2 testing to obtain verifiable information regarding the use of  
3 controlled substances under chapter 329, for not less than ten  
4 per cent of all persons who are teachers and teacher trainees  
5 each year. These procedures shall comply with chapter 329B.

6 Information obtained pursuant to this subsection shall be  
7 used exclusively by the employer for the purpose of determining  
8 whether a teacher or teacher trainee is suitable for working in  
9 close proximity to minor students.

10 A teacher or teacher trainee who refuses to submit to drug  
11 testing under this subsection shall be discharged for refusal to  
12 test.

13 (b) If the test results under subsection (a) are positive,  
14 the employer may impose the following sanctions:

15 (1) Refuse to allow participation in teacher training;

16 (2) Terminate the employment of the teacher or teacher  
17 trainee; or

18 (3) Impose other administrative sanctions, including but  
19 not limited to suspension without pay,

20 if the employer finds by reason of the nature and circumstances  
21 of the use of controlled substances that the teacher or teacher  
22 trainee poses a risk to the health, safety, or well-being of



1 minor students, or otherwise adversely influences minor students  
2 by setting a detrimental example.

3 (c) In addition to the sanctions under subsection (b), the  
4 department, through rules adopted pursuant to chapter 91, shall  
5 require that the teacher or teacher trainee who tests positive  
6 for the abuse of a controlled substance submit to a substance  
7 abuse assessment by a substance abuse professional. The teacher  
8 or teacher trainee shall be responsible for any incurred costs  
9 of any rehabilitation program, treatment, and counseling  
10 required by the substance abuse professional. If a program,  
11 treatment, or counseling is required, evidence of clinical  
12 discharge from the required program, treatment, or counseling  
13 shall be a prerequisite to continued employment.

14 (d) This section shall not apply to volunteers or other  
15 non-remunerated personnel providing support services at  
16 individual schools or any employee subject to a substance abuse  
17 testing policy under a valid collective bargaining agreement."

18 SECTION 3. There is appropriated out of the general  
19 revenues of the State of Hawaii the sum of \$ or so much  
20 thereof as may be necessary for fiscal year 2012-2013 for the  
21 department of education to conduct reasonable suspicion and



1 random testing of teachers and teacher trainees for the abuse of  
2 a controlled substance.

3 The sum appropriated shall be expended by the department of  
4 education for the purposes of this Act.

5 SECTION 4. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: *Fide R. Cubanilla*

JAN 18 2012



# H.B. NO. 2048

**Report Title:**

DOE; Substance Abuse Assessment

**Description:**

Requires the DOE to develop procedures for reasonable suspicion and random substance abuse testing of, at a minimum, 10% of all public school teachers and teacher trainees each year. Requires the DOE to adopt rules to determine sanctions for positive substance abuse assessments. Makes an appropriation to DOE.

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