
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, harassment, and discrimination. A
6 safe and civil environment in school is necessary for students
7 to learn and to meet high academic standards. Bullying,
8 cyberbullying, harassment, and discrimination, like other
9 disruptive or violent behaviors, are forms of conduct that
10 disrupt a student's ability to learn and a school's ability to
11 educate its students in a safe environment. The legislature
12 finds that because students learn by example, school
13 administrators, teachers, staff, volunteers, and third party
14 contractors and hires should be expected to demonstrate
15 appropriate behavior, treat others with civility and respect,
16 and refuse to tolerate bullying, cyberbullying, harassment, and
17 discrimination.



1 place of worship, private institution, public agency, library,
2 or other entity, group, or person that has or is identified with
3 people who have one or more of the characteristics described in
4 sections -D and -E.

5 "Bullying" means any written, verbal, graphic, or physical
6 act that a student or group of students exhibits toward a
7 particular student or students and the behavior causes mental or
8 physical harm to the other student or students, and is
9 sufficiently severe, persistent, or pervasive that it creates an
10 intimidating, threatening, or abusive educational environment
11 for the other student or students.

12 "Cyberbullying" means electronically transmitted acts,
13 including through the Internet, cell phone, personal digital
14 assistant, or wireless hand-held device that a student has
15 exhibited toward another student or school employee which causes
16 mental or physical harm to the other student or school employee
17 and is sufficiently severe, persistent, or pervasive that it
18 creates an intimidating, threatening, or abusive educational
19 environment:

20 (1) On campus, or other school premises, when applicable,
21 on a school vehicle, or during a school sponsored
22 activity or event on or off school property;



1 (2) Through a school data system without school authorized
2 communication; or

3 (3) Through an off campus computer network that is
4 sufficiently severe, persistent, or pervasive that it
5 creates an intimidating, threatening, or abusive
6 educational environment for the other student or
7 school employee, or both.

8 Electronic transmissions include but are not limited to the use
9 of data, computer software that is accessed through a computer,
10 a computer network system, other computerized systems, cellular
11 phones, or other similar electronic devices that display e-mail,
12 text messaging, blogs, photos, drawings, video clips, online
13 community websites, or faxes, or a combination of the foregoing.

14 "Disability" means having a physical or mental impairment
15 which substantially limits one or more major life activities,
16 having a record of such an impairment, or being regarded as
17 having such an impairment. This term includes mental, physical,
18 developmental, or sensory disabilities.

19 "Disability, race, color, religion, ancestry, national
20 origin, gender, gender identity, marital status, familial
21 status, physical appearance, or sexual orientation" includes a
22 perception that a person has any of those characteristics or



1 that a person is associated with a person who has, or is
2 perceived to have, any of those characteristics.

3 "Familial status" means the status of a minor child or
4 children who reside with a parent having legal custody, a person
5 who has been given care and custody of the child or children by
6 a governmental agency, or a person who has written or unwritten
7 permission from the legal parent. This term includes the status
8 of a person who is pregnant, or any person who is in the process
9 of securing legal custody of a minor child or children.

10 "Gender" means sex, and includes a person's gender
11 identity.

12 "Gender identity" includes a person's actual or perceived
13 gender, as well as a person's gender-related self-image, gender-
14 related appearance, or gender-related expression, regardless of
15 whether or not traditionally associated with the person's
16 assigned sex at birth.

17 "Harassment" means a student who is harassing, bullying,
18 including cyberbullying, annoying, or alarming another person by
19 engaging in the following conduct that includes but is not
20 limited to:



- 1 (1) Striking, shoving, kicking, or otherwise touching a
2 person in an offensive manner or subjecting such
3 person to offensive physical contact;
- 4 (2) Insulting, taunting, or challenging another person in
5 a manner likely to provoke a violent response;
- 6 (3) Making verbal or non-verbal expressions that causes
7 others to feel uncomfortable, pressured, threatened,
8 or in danger because of reasons that include but are
9 not limited to the person's race, color, national
10 origin, ancestry, sex, including gender identity and
11 expression, religion, disability, or sexual
12 orientation that creates an intimidating, hostile, or
13 offensive educational environment, or interferes with
14 the education of a student, or otherwise adversely
15 affects the educational opportunity of a student or
16 students;
- 17 (4) Name calling, making rude gestures, insulting, or
18 teasing another person who feels humiliated,
19 intimidated, threatened, or embarrassed;
- 20 (5) Making a telephone call without purpose of legitimate
21 communication;



1 (6) Making repeated communications anonymously, or at
2 extremely inconvenient hours, or in offensively coarse
3 language on campus, on other school premises, on a
4 school vehicle, or during a school sponsored activity
5 or event on or off school property;

6 (7) Causing fear so as to prevent others from gaining
7 legitimate access to or use of school buildings,
8 facilities, services, or grounds including but not
9 limited to restroom facilities; or

10 (8) Physically harming, physically restraining,
11 threatening, or stalking, or a combination of the
12 foregoing.

13 "Nationality" means a person's citizenship, country of
14 origin, and national origin.

15 "Physical appearance" includes a person's height, weight,
16 hair color, eye color, or any other distinguishing physical
17 characteristic.

18 "Race or ethnicity" means a person's ancestry, color,
19 ethnic group identification, and ethnic background.

20 "Religion" means all aspects of religious belief,
21 observance, and practice, and includes agnosticism and atheism.



1 "School vehicle" means any publicly or privately owned
2 motor vehicle used to transport students to and from a public
3 school or public charter school, public or public charter school
4 functions, or public or public charter school-related events,
5 except:

6 (1) A motor vehicle used for the transportation of
7 students attending schools above the twelfth grade;

8 (2) A privately-owned passenger vehicle when the
9 transportation is provided without compensation of any
10 kind; provided that the school has approved the use of
11 the privately-owned passenger vehicle;

12 (3) A motor vehicle used for the transportation of
13 students together with other passengers as a part of
14 the regularly scheduled operation of a mass transit
15 system; or

16 (4) A privately-owned motor vehicle when the
17 transportation is provided by a community association
18 or a nonprofit corporation, duly incorporated with the
19 department of commerce and consumer affairs, which
20 operates for the purpose of promoting recreation,
21 health, safety, ridesharing, or social group
22 functions.



1 "Sexual harassment" means an unwelcome sexual advance,
2 request for sexual favors, and other verbal, visual, physical
3 conduct of a sexual nature, made by any student, administrator,
4 teacher, school employee, or volunteer, under any of the
5 following conditions:

6 (1) Submission to the conduct is explicitly or implicitly
7 made a term or condition of an individual's
8 employment, academic status, or progress;

9 (2) Submission to, or rejection of, the conduct by the
10 individual is used as a basis of employment or
11 academic decisions affecting the individual;

12 (3) The conduct has the purpose or effect of having a
13 negative impact upon the individual's work or academic
14 performance, or of creating an intimidating, hostile,
15 or offensive work or educational environment; and

16 (4) Submission to, or rejection of, the conduct by the
17 individual is used as the basis for any decision
18 affecting the individual regarding benefits and
19 services, honor programs, or activities available at
20 the school.

21 "Sexual orientation" means having a preference for
22 heterosexuality, homosexuality, or bisexuality, having a history



1 of any one or more of these preferences, or being identified
2 with any one or more of these preferences.

3 "Volunteer" means an individual who, with the approval of
4 the school, has significant contact with students during
5 official school activities.

6 § -C Prohibition against bullying, cyberbullying, and
7 harassment. No person shall engage in bullying, cyberbullying,
8 or harassment, on any school premises, at any school sponsored
9 or approved activity, or on any school vehicle.

10 § -D Prohibition against discrimination. (a) No
11 person, on the basis of that person's actual or perceived race,
12 color, religion, ancestry, national origin, gender,
13 socioeconomic status, academic status, gender identity, marital
14 status, political party preference, policy belief, familial
15 status, physical appearance, sexual orientation, or disability,
16 or on the basis of association with a person or persons having
17 or perceived to have any of these characteristics, shall be
18 denied admission to any public school or public charter school
19 or be denied participation in, be excluded from, be expelled
20 from, be denied the benefits of or be discriminated against in
21 any curricular, co-curricular, student services, recreational or
22 other program or activity, including but not limited to:



- 1 (1) Any academic, co-curricular, research, or occupational
- 2 training program or activity;
- 3 (2) Athletic programs;
- 4 (3) Access to information about an institution or program
- 5 through recruitment; and
- 6 (4) The availability of financial assistance and
- 7 opportunity.

8 (b) For purposes of this chapter, unwarranted placement of
9 a student in special education classes or alternative schools
10 based on the characteristics listed in subsection (a) shall be
11 considered discrimination.

12 § -E Prohibition against discrimination on the basis of
13 sexual orientation or gender identity. (a) No person, on the
14 basis of that person's actual or perceived sexual orientation or
15 gender identity, shall be denied admission to any school or be
16 denied participation in, be excluded from, be expelled from, be
17 denied the benefits of or be discriminated against in any
18 curricular, co-curricular, student services, recreational or
19 other program or activity, including but not limited to:

- 20 (1) Any academic, co-curricular, research, or occupational
- 21 training program or activity;
- 22 (2) Athletic programs;



1 (3) Access to information about an institution or program
2 through recruitment; and

3 (4) The availability of financial assistance and
4 opportunity.

5 (b) For purposes of this chapter, unwarranted placement of
6 a student in special education classes or alternative schools
7 based on the person's sexual orientation or gender identity
8 shall be considered discrimination.

9 § -F Curriculum. (a) No teacher shall utilize
10 curriculum to discriminate against persons on the basis of the
11 characteristics listed in sections -D and -E.

12 (b) Instruction may include a study of the role of
13 specific groups of people, including but not limited to both men
14 and women, African Americans, Latino Americans, Asian Pacific
15 Island Americans, Native Americans, Hawaiians, people of other
16 ethnic groups, lesbian, gay, bisexual, and transgendered people,
17 and people with disabilities, to the economic, political, and
18 social development of the State and the United States, with a
19 particular emphasis on portraying the role of these groups in
20 contemporary society.

21 § -G Policies against bullying, cyberbullying, and
22 harassment. (a) The board of education and the governing board



1 of each public charter school shall adopt policies on bullying,
2 cyberbullying, and harassment.

3 (b) The polices shall:

4 (1) Clearly define conduct that constitutes bullying,
5 cyberbullying, and harassment, within the definitions
6 contained in section -B;

7 (2) Clearly state that bullying, cyberbullying, and
8 harassment are against state and school policy, while
9 in school, on school equipment or property, in school
10 vehicles, at designated school bus stops, at school
11 sponsored activities, or at school sanctioned events,
12 regardless of location;

13 (3) Prohibit bullying, cyberbullying, and harassment that
14 disrupts or interferes with the school's educational
15 mission or interferes with a student's education,
16 academic performance, or ability to participate in, or
17 benefit from, the services, activities, or privileges
18 provided by the school;

19 (4) Clearly state the consequences for engaging in any
20 conduct prohibited by this chapter or school policy;
21 provided that the consequences may vary depending on
22 the age or grade of the student involved;



- 1 (5) Require that any administrator, teacher, school
2 employee, or volunteer who has witnessed or has
3 reliable information that a student has been a victim
4 of bullying, cyberbullying, and harassment shall
5 report the incident to the school's principal or the
6 principal's designee;
- 7 (6) Provide that any person who files a complaint pursuant
8 to this chapter or school policy shall not be subject
9 to retaliation or reprisal in any form;
- 10 (7) Require that the following notices be conspicuously
11 posted in every classroom, cafeteria, restroom,
12 gymnasium, auditorium, and school vehicle:
- 13 (A) Definitions of bullying, cyberbullying, and
14 harassment, as provided in this chapter;
- 15 (B) A statement that bullying, cyberbullying, and
16 harassment are prohibited; and
- 17 (C) Consequences of engaging in the behavior
18 prohibited by this chapter;
- 19 (8) Require that the notices required by paragraph (7) be
20 provided to all students, administrators, teachers,
21 school employees, volunteers, and third party
22 contractors and hires;



- 1 (9) Require that the polices required by paragraph (7) be
2 made available upon the request of any person;
- 3 (10) Provide examples of how the school may train students,
4 administrators, teachers, school employees,
5 volunteers, and third party contractors and hires on
6 how to prevent bullying, cyberbullying, and
7 harassment, and provide opportunities for
8 participation in programs or other activities designed
9 to develop the knowledge and skills needed to prevent
10 and respond to acts prohibited under this chapter;
- 11 (11) Specify a procedure for the prompt investigation of a
12 report of bullying, cyberbullying, or harassment,
13 including the identification of those persons who
14 shall be responsible for conducting the investigation;
- 15 (12) Specify that anonymous reports of bullying,
16 cyberbullying, and harassment shall be sufficient to
17 trigger an investigation; provided that no final
18 action may be based solely on an anonymous report; and
- 19 (13) Include a process to refer reported acts of bullying,
20 cyberbullying, and harassment to appropriate officials
21 if it is determined that the school does not have
22 jurisdiction over such acts.



1 (c) Any administrator, teacher, school employee,
2 volunteer, or third party contractor or hire who reports any
3 violation of this chapter shall be immune from any tort
4 liability that may arise from any failure to remedy the reported
5 incident.

6 § -H Policies against discrimination. (a) The board of
7 education and the governing board of each public charter school
8 shall adopt policies on discrimination against students on the
9 bases set forth in sections -D and -E.

10 (b) The policies shall:

11 (1) Clearly state that discrimination on the bases set
12 forth in sections -D and -E are against state
13 and school policy;

14 (2) Provide that any person who files a complaint pursuant
15 to this chapter or school policy shall not be subject
16 to retaliation or reprisal in any form;

17 (3) Provide examples of how the school may train students,
18 administrators, teachers, school employees,
19 volunteers, and third party contractors and hires on
20 how to prevent discrimination and provide
21 opportunities for participation in programs or other
22 activities designed to develop the knowledge and



1 skills needed to prevent and respond to acts of
2 discrimination; and

3 (4) Specify a procedure for the prompt investigation of a
4 report of discrimination, including the identification
5 of those persons who shall be responsible for
6 conducting the investigation.

7 (c) Any administrator, teacher, school employee,
8 volunteer, or third party contractor or hire who reports any
9 violation of this chapter shall be immune from any tort
10 liability that may arise from any failure to remedy the reported
11 incident.

12 § -I Conduct by teachers regarding bullying,
13 cyberbullying, harassment, and discrimination. (a) In
14 fulfilling obligations to students, a teacher at a public school
15 or public charter school:

16 (1) Shall not deliberately distort, suppress, or deny
17 access to curricular materials or educational
18 information in order to promote the teacher's personal
19 views, interests, or goals;

20 (2) Shall make a reasonable effort to protect students
21 from conditions that are harmful to learning or to
22 health and safety;



- 1 (3) Shall not engage in physical abuse or sexual conduct
2 with a student and shall report such an act by any
3 administrator, teacher, school employee, or volunteer;
- 4 (4) Shall not wilfully expose a student to embarrassment
5 or disparagement;
- 6 (5) Shall not harass, discriminate against, or grant a
7 discriminatory advantage to a student on the grounds
8 of actual or perceived race, color, religion,
9 ancestry, national origin, gender, socioeconomic
10 status, academic status, gender identity, marital
11 status, political party preference, political belief,
12 familial status, physical appearance, sexual
13 orientation or disability, or on the basis of
14 association with a person having or perceived to have
15 any of those characteristics;
- 16 (6) Shall make reasonable efforts to assure that a student
17 is protected from bullying, cyberbullying, harassment,
18 and discrimination and shall not encourage bullying,
19 cyberbullying, harassment, and discrimination against
20 students;
- 21 (7) Shall accord just and equitable treatment to all
22 students; and



1 (8) Shall keep confidential all information acquired about
2 students in the course of the teacher's employment
3 unless disclosure serves a compelling professional
4 purpose or is required by law.

5 (b) In fulfilling professional obligations,
6 administrators, teachers, and school employees:

7 (1) Shall not, on the basis of actual or perceived race,
8 color, religion, ancestry, national origin, gender,
9 socioeconomic status, academic status, gender
10 identity, marital status, political party preference,
11 political belief, familial status, physical
12 appearance, sexual orientation, or disability, or on
13 the basis of association with a person having or
14 perceived to have any of those characteristics, deny
15 another administrator, teacher, or school employee a
16 professional benefit or advantage, or participation in
17 any professional organization, and may not
18 discriminate in any employment practice, assignment,
19 or personnel evaluation;

20 (2) Shall accord just and equitable treatment to all other
21 administrators, teachers, and school employees;



- 1 (3) Shall not use coercive means or promise special
- 2 treatment in order to influence the professional
- 3 decisions of other administrators, teachers, and
- 4 school employees;
- 5 (4) Shall not bully, cyberbully, harass, or sexually
- 6 harass any other administrator, teacher, or school
- 7 employee;
- 8 (5) Shall keep confidential all information acquired about
- 9 other administrators, teachers, and school employees
- 10 during the course of employment, unless disclosure
- 11 serves a compelling professional purpose or is
- 12 required by law;
- 13 (6) Shall not deliberately misrepresent their or another
- 14 administrator, teacher, or school employee's
- 15 professional qualifications; and
- 16 (7) Shall not seek reprisal against any individual who has
- 17 filed a complaint, provided testimony, or given any
- 18 other assistance in support of a complaint filed
- 19 against them for an alleged violation of this chapter.
- 20 (c) All other persons who are on a school campus or
- 21 involved in school-sponsored activities shall be subject to the
- 22 requirements of subsections (a) and (b), when their presence on



1 campus or involvement in school-sponsored activities makes the
2 application of those requirements appropriate.

3 § -J **Education and training on bullying, cyberbullying,**
4 **and harassment.** (a) The board of education and the governing
5 board of each public charter school shall identify model
6 educational programs for school administrators, teachers,
7 coaches, staff, parents, volunteers, third party contractors and
8 hires, and students to provide them with knowledge of this
9 chapter and the school's policies on bullying, cyberbullying,
10 and harassment.

11 (b) Each public school and public charter school may form
12 task forces to implement educational programs or other
13 initiatives that are aimed at the prevention of, and the
14 appropriate response to, acts of bullying, cyberbullying, and
15 harassment.

16 § -K **Education and training on discrimination.** The
17 board of education and the governing board of each public
18 charter school shall identify model educational programs for
19 school administrators, teachers, coaches, staff, parents,
20 volunteers, third party contractors and hires, and students to
21 provide them with knowledge of this chapter and the school's



1 policies against discrimination, including providing examples of
2 the prohibited discriminatory behaviors.

3 § -L **Licensing.** In developing teacher licensing
4 requirements pursuant to chapter 302A, the Hawaii teacher
5 standards board may require teachers to complete classes related
6 to bullying, cyberbullying, harassment, and discrimination.

7 § -M **Civil or criminal action.** Nothing in this chapter
8 shall be construed to require the exhaustion of any available
9 administrative remedy before any civil or criminal complaint may
10 be filed based on any violation of this chapter."

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$500,000 or so much
13 thereof as may be necessary for fiscal year 2013-2014 and the
14 same sum or so much thereof as may be necessary for fiscal year
15 2014-2015 for comprehensive training for school administrators,
16 teachers, coaches, staff, parents, volunteers, third party
17 contractors and hires, and students on bullying, cyberbullying,
18 harassment, and discrimination.

19 The sums appropriated shall be expended by the department
20 of education for the purposes of this Act.

21



1 SECTION 5. This Act shall take effect upon its approval;
2 provided that section 4 shall take effect on July 1, 2013.

3

INTRODUCED BY: _____

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JAN 23 2013



H.B. NO. 1726

Report Title:

Education; Public Schools; Charter Schools; Safe Schools Act; Appropriation

Description:

Establishes a new chapter to prohibit discrimination in Hawaii's public and charter schools and to protect students from bullying, cyberbullying, and harassment. Requires the board of education and the governing boards of each public charter school to develop policies to prevent bullying, cyberbullying, and harassment. Requires the board of education and the governing board of each public charter school to develop model educational programs for school administrators, teachers, coaches, staff, parents, volunteers, third party contractors and hires, and students to provide them with knowledge of state law and school policies against bullying, cyberbullying, harassment, and discrimination. Makes an appropriation for training.

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

