

JAN 18 2013

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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, 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: Suzanne Chen Oakland

Michelle Kidani

Theresa [unclear]  
Gene [unclear]

Rosely de Paiva

Rosal [unclear]



# S.B. NO. 525

**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.*

