
A BILL FOR AN ACT

RELATING TO BULLYING.

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

1 PART I

2 SECTION 1. This Act shall be known as the Safe Schools for
3 All Students Act.

4 SECTION 2. The legislature finds that all students have
5 the right to fully participate in the educational process free
6 from bullying and cyberbullying. A safe and civil environment
7 in school is necessary for students to learn and to meet high
8 academic standards. Bullying and cyberbullying, like other
9 disruptive or violent behaviors, inhibit a student's ability to
10 learn and a school's ability to educate students in a safe
11 environment. It is imperative that all schools and youth-
12 serving agencies in the State establish and maintain clear and
13 consistent policies and procedures to address such behavior. In
14 addition, because students learn by example, school
15 administrators, faculty, staff, parents, guardians, and
16 volunteers should be expected to demonstrate appropriate



1 behavior, treat others with civility and respect, and refuse to
2 tolerate bullying and harassment.

3 The purpose of this Act, therefore, is to require all
4 youth-serving agencies, public schools, and public charter
5 schools that receive state funding to establish, maintain,
6 monitor, and enforce policies and procedures related to all
7 forms of bullying and cyberbullying to protect youth in the
8 State.

9 PART II

10 SECTION 3. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 "CHAPTER

14 BULLYING PREVENTION

15 § -1 Definitions. As used in this chapter, unless the
16 context clearly indicates otherwise:

17 "Agency" means any state government entity that provides
18 services, activities, or privileges to youth.

19 "Alternative discipline" means disciplinary action other
20 than suspension or expulsion from school that is designed to
21 correct and address the root causes of a student's specific



1 misbehavior while retaining the student in class or school or
2 restorative school practices to repair the harm done to
3 relationships and persons from the student's misbehavior.

4 "Alternative discipline" includes, but is not limited to:

- 5 (1) Meeting with the student and the student's parents;
- 6 (2) Reflective activities, such as requiring the student
7 to write an essay about the student's misbehavior;
- 8 (3) Counseling;
- 9 (4) Anger management classes;
- 10 (5) Health counseling or intervention;
- 11 (6) Mental health counseling;
- 12 (7) Participation in skills building and resolution
13 activities, such as social-emotional cognitive skills
14 building, resolution circles, and restorative
15 conferencing;
- 16 (8) Community service; and
- 17 (9) In-school detention or suspension, which may take
18 place during lunchtime, after school, or on weekends.

19 "Bullying" means any severe, pervasive, or persistent act
20 or conduct, whether physical, electronic, or verbal, that:



1 (1) May be based on a youth's actual or perceived race;
2 sex, including gender identity or expression; sexual
3 orientation; color; religion; ancestry; or disability,
4 or any other distinguishing characteristic, or on a
5 youth's association with a person, or group with any
6 person, with one or more of the actual or perceived
7 foregoing characteristics; and

- 8 (2) Can be reasonably predicted to:
- 9 (A) Place the youth in reasonable fear of physical
 - 10 harm to his or her person or property;
 - 11 (B) Cause a substantially detrimental effect on the
 - 12 youth's physical or mental health;
 - 13 (C) Substantially interfere with the youth's academic
 - 14 performance or attendance; or
 - 15 (D) Substantially interfere with the youth's ability
 - 16 to participate in, or benefit from, the services,
 - 17 activities, or privileges provided by an agency
 - 18 or grantee.

19 "Disability" means the state of having a physical or mental
20 impairment that substantially limits one or more major life
21 activities, having a record of such an impairment, or being

1 regarded as having such an impairment. "Disability" does not
2 include alcohol or drug use that impairs a person's activities
3 or threatens the property or safety of others.

4 "Electronic communication" means a communication
5 transmitted by means of an electronic device, including a
6 telephone, cellular phone, computer, tablet, pager, or video or
7 audio recording.

8 "Employee" means an individual who performs a function for
9 an agency or grantee and receives compensation for the
10 performance of that function.

11 "Gender identity or expression" includes a person's actual
12 or perceived gender, as well as a person's gender identity,
13 gender-related self-image, gender-related appearance, or gender-
14 related expression, regardless of whether that gender identity,
15 gender-related self-image, gender-related appearance, or gender-
16 related expression is different from that traditionally
17 associated with the person's sex at birth.

18 "Grantee" means an entity or contractor of an entity that,
19 on behalf of the State or through the use of State funds,
20 provides services, activities, or privileges to youth.



1 "Party" means a person accused of bullying, a target of
2 bullying, or a parent or guardian of either a person accused of
3 bullying or a target of bullying.

4 "Sexual orientation" means having a preference for
5 heterosexuality, homosexuality, or bisexuality, having a history
6 of any one or more of these preferences, or being identified
7 with any one or more these preferences. "Sexual orientation"
8 shall not be construed to protect conduct otherwise proscribed
9 by law.

10 "Youth" means an individual of seventeen years of age or
11 less who is enrolled in a public or private school or who
12 accesses the services or programs provided by an agency or
13 grantee or an individual of twenty-two years of age or less who
14 is receiving special education services from a public or private
15 school.

16 § -2 **Bullying prevention policy.** (a) Each agency and
17 grantee shall adopt a bullying prevention policy to be enforced:

- 18 (1) On its property, including electronic communication on
19 or within its property;
20 (2) At sponsored functions;



1 (3) On its transportation or transportation it sponsors;
2 and

3 (4) Through electronic communication to the extent that it
4 is directed at a youth and it substantially interferes
5 with the youth's ability to participate in or benefit
6 from the services, activities, or privileges provided
7 by the agency or grantee.

8 (b) Each agency and grantee shall control the content of
9 its policy; provided that each policy shall include:

10 (1) The definition of bullying as set forth in section
11 -1;

12 (2) A statement prohibiting bullying;

13 (3) A statement that prohibits retaliation against any
14 person who reports or witnesses incidents of bullying;

15 (4) A statement that the policy applies to participation
16 in functions sponsored by the agency or grantee;

17 (5) An expected code of conduct;

18 (6) A list of the consequences, including alternative
19 discipline approaches, that can result from an
20 identified incident of bullying, which are designed
21 to:



- 1 (A) Appropriately correct the bullying behavior;
- 2 (B) Prevent another occurrence of bullying or
- 3 retaliation;
- 4 (C) Protect the target of the bullying; and
- 5 (D) Be flexible so that they can be applied to each
- 6 incident individually and varied in method and
- 7 severity based on the nature of the incident,
- 8 developmental age of the person bullying, and any
- 9 history of problem behavior from the person
- 10 bullying;
- 11 (7) A procedure for reporting bullying or retaliation for
- 12 reporting an act of bullying, including for reporting
- 13 bullying anonymously; provided that no formal response
- 14 shall be taken solely on the basis of an anonymous
- 15 report;
- 16 (8) A procedure for prompt investigation of reports of
- 17 violations of its policy and of complaints of bullying
- 18 or retaliation, including the name and contact
- 19 information of the person responsible for
- 20 investigating reports;



1 (9) A procedure for prompt notification of the parent or
2 guardian of the student alleged to have committed an
3 act of bullying and the parent or guardian of the
4 student targeted by the alleged act; provided that if
5 administrator or director of the agency or grantee
6 believes, in their professional capacity, that
7 contacting the parent or guardian would endanger the
8 health or well-being of a student, the administrator
9 or director may delay such contact as appropriate; and

10 (10) An appeal process for a party who is not satisfied
11 with the outcome of an initial investigation.

12 § -3 **Bullying prevention programs.** Following the
13 adoption of a bullying prevention policy, each agency and
14 grantee shall:

15 (1) Establish an annual bullying prevention program for
16 youth, which for each public school, should align with
17 established health education standards;

18 (2) Inform youth about their right to be free from
19 discrimination in public accommodations and education
20 and of the remedies available for a violation of their
21 rights under chapter 489; and



1 (3) Provide annual training on bullying prevention to all
2 employees and volunteers who have significant contact
3 with youth.

4 § -4 Retaliation, reporting, and immunity. (a) An
5 employee, volunteer, or youth shall not retaliate against a
6 victim or witness of bullying or a person who reports bullying.

7 (b) An employee or volunteer who has witnessed bullying in
8 violation of a bullying prevention policy, or has reliable
9 information that a person has been subject to bullying in
10 violation of a bullying prevention policy, shall promptly report
11 the incident or information to the person designated by the
12 agency or grantee as responsible for investigating the reports.

13 (c) An employee, volunteer, or youth who promptly and in
14 good faith reports an incident of, or information on, bullying
15 in compliance with a bullying prevention policy developed
16 pursuant to section -2 shall be immune from a cause of action
17 for damages arising from such a report.

18 § -5 Reporting. (a) Each agency and grantee shall
19 provide to the governor, by a date determined by the governor,
20 an annual report including the aggregate incidents of bullying



1 and any other information the governor determines is necessary
2 or appropriate.

3 (b) The governor shall:

4 (1) By September 1, 2016, and biennially thereafter,
5 review the programs, activities, services, and
6 policies of each agency or grantee to determine their
7 effectiveness and shall determine whether the agency
8 or grantee is in compliance with this chapter; and

9 (2) Report findings to the legislature by December 31 of
10 each year that a report is due, along with an
11 assessment of the current level and nature of bullying
12 in agencies, education institutions, and grantees, an
13 evaluation of the sufficiency of funding for bullying
14 prevention programs, and any recommendations for
15 legislative, policy, or programmatic changes to better
16 address bullying in the State."

17 SECTION 4. (a) There is established a bullying prevention
18 task force within the department of education for administrative
19 purposes only.

20 (b) The task force shall consist of eleven members, to be
21 appointed by the governor and shall include community



1 representatives and representatives from the agencies and
2 grantees that will be affected by this Act, including teachers,
3 administrators, school mental health professionals, parents and
4 legal guardians, direct service providers, clergy, advocates,
5 and youth. In constituting the task force, the governor shall
6 ensure that the membership is geographically and
7 socioeconomically diverse.

8 (c) The task force shall:

- 9 (1) Provide guidance to the governor regarding the
10 implementation of this Act;
- 11 (2) Publicize a model policy containing each component
12 required by chapter within one hundred and eighty
13 days of the effective date of this Act;
- 14 (3) Assist agencies and grantees in developing policies in
15 accordance with chapter ;
- 16 (4) Compile and make available to each agency and grantee
17 a list of free or low-cost methods for establishing
18 the bullying prevention programs required under
19 chapter ;



1 (5) Review for compliance the bullying prevention policies
2 of each agency and grantee within ninety days of their
3 receipt;

4 (6) Create resources and hold events to help inform
5 employees, parents, and youth about the requirements
6 of this Act; and

7 (7) Create guidelines to assist the governor in evaluating
8 the effectiveness of established bullying prevention
9 policies.

10 (d) Members of the task force shall serve without
11 compensation; however, the department of education shall provide
12 the task force with the resources and staff support necessary
13 for the accomplishment of their duties.

14 (e) No member of the task force shall be made subject to
15 chapter 84, Hawaii Revised Statutes, solely because of that
16 member's participation as a member of the task force.

17 (f) The task force shall be dissolved two years after its
18 initial meeting; provided that the governor, in the governor's
19 discretion, may grant a one-year extension.

20 SECTION 5. Each agency and grantee subject to chapter
21 shall, in coordination with the task force established by



1 section 4 of this Act, adopt the bullying prevention policy
2 required by the new chapter established by section 3 of this Act
3 within one year of the effective date of this Act, and shall
4 submit such policy to the task force for review.

5 PART III

6 SECTION 6. Section 302D-34, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) A public charter school shall not discriminate
9 against any student or limit admission based on race, color,
10 ethnicity, national origin, religion, gender, gender identity or
11 expression, sexual orientation, income level, disability, level
12 of proficiency in the English language, need for special
13 education services, or academic or athletic ability."

14 PART IV

15 SECTION 7. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 8. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



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1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval.

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JAN 26 2015



H.B. NO. 819

Report Title:

Bullying; Safe Schools for All Students

Description:

Requires certain state entities and grantees to adopt bullying prevention policies. Establishes a task force to assist the Governor with bullying prevention policies in the State.

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