
A BILL FOR AN ACT

RELATING TO BULLYING.

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

1 SECTION 1. This Act shall be known as the safe schools for
2 all students act.

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



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

7 SECTION 3. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 "CHAPTER

11 SAFE SCHOOLS FOR ALL STUDENTS

12 § -1 Definitions. For the purposes of this chapter, the
13 term:

14 "Agency" means any state government entity that provides
15 services, activities, or privileges to youth, including the:

- 16 (1) Department of education;
- 17 (2) State public charter school commission;
- 18 (3) Department of human services;
- 19 (4) Department of agriculture;
- 20 (5) Department of transportation; and
- 21 (6) University of Hawaii.



1 "Alternative discipline" means disciplinary action other
2 than suspension or expulsion from school that is designed to
3 correct and address the root causes of a student's specific
4 misbehavior while retaining the student in class or school, or
5 restorative school practices to repair the harm done to
6 relationships and persons from the student's misbehavior.

7 Alternative discipline includes but is not limited to:

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



1 "Bullying" means any severe, pervasive, or persistent act
2 or conduct, whether physical, electronic, including any form of
3 cyberbullying, or verbal that:

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

11 (2) Can be reasonably predicted to:

12 (A) Place the youth in reasonable fear of physical
13 harm to his or her person or property;

14 (B) Cause a substantial detrimental effect on the
15 youth's physical or mental health;

16 (C) Substantially interfere with the youth's academic
17 performance or attendance; or

18 (D) Substantially interfere with the youth's ability
19 to participate in or benefit from the services,
20 activities, or privileges provided by an agency,
21 educational institution, or grantee.



1 "Disability" shall have the same meaning as provided in
2 chapter 489.

3 "Educational institution" means any local education agency
4 that receives funds from the State, including public charter
5 schools.

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

10 "Employee" means an individual who performs a function for
11 the State or for an agency, educational institution, or grantee
12 and who receives compensation for the performance of that
13 function.

14 "Gender identity or expression" shall have the same meaning
15 as provided in chapter 489.

16 "Grantee" means an entity or a contractor of an entity
17 that, on behalf of the State or through state funding, provides
18 services, activities, or privileges to youth.

19 "Party" means a person accused of bullying, a target of
20 bullying, or a parent or guardian of either a person accused of
21 bullying or a target of bullying.



1 "Place of public accommodation" shall have the same meaning
2 as provided in chapter 489.

3 "Sexual orientation" shall have the same meaning as
4 provided in chapter 489.

5 "Youth", depending on the context, means:

- 6 (1) An individual of twenty-one years of age or less who
7 is enrolled in an educational institution or who
8 accesses the services or programs provided by an
9 agency or grantee, or an individual of twenty-two
10 years of age or less who is receiving special
11 education services from an educational institution; or
12 (2) Individuals as described in paragraph (1) of this
13 definition considered as a group.

14 § -2 **Bullying prevention task force.** (a) Within sixty
15 days of the effective date of this chapter, the governor shall
16 establish a bullying prevention task force within the governor's
17 office.

18 (b) In convening this task force and selecting its
19 members, the governor shall consider geographic and
20 socioeconomic diversity as well as other forms of diversity.
21 The governor shall appoint eleven representatives from a variety



1 of educational institutions and agencies that will be affected
2 by this chapter, as well as community representatives,
3 including:

- 4 (1) Teachers;
- 5 (2) Administrators from educational institutions and
6 agencies;
- 7 (3) School mental health professionals;
- 8 (4) Parents and legal guardians;
- 9 (5) Youth;
- 10 (6) Direct service providers;
- 11 (7) Clergy; and
- 12 (8) Youth advocates.
- 13 (c) The task force shall:
 - 14 (1) Provide guidance to the governor regarding the
15 implementation of this chapter;
 - 16 (2) Within one-hundred eighty days of the effective date
17 of this chapter, publicize a model policy, which shall
18 contain each of the components required by this
19 chapter;



- 1 (3) Assist educational agencies, institutions, and
2 grantees with developing policies in accordance with
3 this chapter;
- 4 (4) Compile, and make available to each agency,
5 educational institution, and grantee, a list of free
6 or low-cost methods for establishing the bullying
7 prevention programs authorized by this chapter;
- 8 (5) Within ninety days of receipt of the bullying
9 prevention policies submitted by agencies, educational
10 institutions, and grantees, review each adopted policy
11 for compliance with the requirements of this chapter;
- 12 (6) Create resources and hold events to help inform
13 employees, parents, and youth about the requirements
14 of this chapter; and
- 15 (7) Promulgate guidelines to assist the governor in
16 evaluating the effectiveness of the bullying
17 prevention policies that have been established.
- 18 (d) The governor shall provide the task force with
19 resources and staff support to execute the responsibilities of
20 the task force pursuant to this chapter.



1 (e) Members of the task force shall serve without
2 compensation but shall be reimbursed for reasonable expenses,
3 including travel expenses, necessary for the performance of
4 their duties.

5 (f) The task force shall terminate two years after its
6 initial meeting; provided that at the discretion of the
7 governor, a one-year extension may be granted.

8 § -3 Bullying prevention policy. (a) Within three-
9 hundred sixty-five days of the effective date of this chapter,
10 in coordination with the task force established pursuant to
11 section -2, each agency, educational institution, and grantee
12 shall adopt a bullying prevention policy to be enforced:

- 13 (1) On its property, including electronic communication on
14 or within its property;
- 15 (2) At functions sponsored by the agency, educational
16 institution, or grantee; and
- 17 (3) On vehicles owned or sponsored by the agency,
18 educational institution, or grantee.

19 (b) Each agency, educational institution, and grantee
20 shall control the content of its policy; provided that each
21 policy shall include:



- 1 (1) The definition of bullying set forth in section -1;
- 2 (2) A statement prohibiting bullying;
- 3 (3) A statement that the policy applies to participation
- 4 in functions sponsored by the agency, educational
- 5 institution, or grantee;
- 6 (4) A code of conduct;
- 7 (5) A list of the consequences, including alternative
- 8 discipline approaches, that may result from an
- 9 identified incident of bullying, which are designed
- 10 to:
- 11 (A) Appropriately correct the bullying behavior;
- 12 (B) Prevent another occurrence of bullying or
- 13 retaliation;
- 14 (C) Protect the victim of the bullying; and
- 15 (D) Be flexible so that they can be uniquely applied
- 16 to the individual incident and varied in method
- 17 and severity based on the:
- 18 (i) Nature of the incident;
- 19 (ii) Developmental age of the person who
- 20 committed the bullying; and



- 1 (iii) Any history of problem behavior from the
- 2 person who committed the bullying;
- 3 (6) A procedure for reporting bullying or retaliation for
- 4 reporting an act of bullying, including a procedure
- 5 for anonymous reports of bullying; provided that no
- 6 formal response shall be taken solely on the basis of
- 7 an anonymous report;
- 8 (7) A procedure for prompt investigation of reports of
- 9 violations of its policy and of complaints of bullying
- 10 or retaliation, including the name and contact
- 11 information of the person responsible for
- 12 investigating reports;
- 13 (8) A procedure of prompt notification of the parents or
- 14 guardians of the student alleged to have committed an
- 15 act of bullying and the parents or guardians of the
- 16 student targeted by the alleged act, provided that if
- 17 the administrator believes, in their professional
- 18 capacity, that contacting the parent or guardian would
- 19 endanger the health or well-being of a student, they
- 20 may delay such contact as appropriate;



1 (9) An appeal process for a party who is not satisfied
2 with the outcome of the initial investigation; and

3 (10) A statement that prohibits retaliation against any
4 person who reports or witnesses incidents of bullying.

5 (c) Within three-hundred sixty-five days of the effective
6 date of this chapter, each agency, educational institution, and
7 grantee shall submit a copy of its adopted policy to the task
8 force.

9 (d) The requirements of this chapter and any policy
10 adopted pursuant to this chapter shall be deemed to meet any
11 health and safety standards that are required for educational
12 institutions, if applicable.

13 (e) Information on the bullying prevention policy shall be
14 incorporated into each agency, educational institution, and
15 grantee's new employee training.

16 (f) Each agency, educational institution, and grantee
17 shall develop a plan for how the policy is to be publicized, and
18 shall include:

19 (1) Making a developmentally-appropriate version of the
20 bullying prevention policy available to youth;



1 (2) Posting the policy and a developmentally-appropriate
2 version of the policy for youth available on its
3 website; and

4 (3) Making available the name and contact information of
5 the person responsible for investigating reports of
6 bullying.

7 § -4 Secondary investigation; appeal. (a) A party who
8 is not satisfied with the outcome of the initial investigation
9 conducted pursuant to this chapter may request a secondary
10 investigation by submitting a written appeal to the higher-level
11 authority in the agency, educational institution, or grantee
12 designated to hear appeals. A written request for an appeal
13 shall be submitted within thirty days of the conclusion of the
14 initial investigation.

15 (b) The secondary investigation shall be completed within
16 thirty days of receipt of the written request for appeal,
17 unless:

18 (1) Circumstances require additional time to complete a
19 thorough investigation;



1 (2) The higher-level authority sets forth those
2 circumstances identified pursuant to paragraph (1) in
3 writing; and

4 (3) The additional time does not exceed fifteen days.

5 (c) When a written request for an appeal for a secondary
6 investigation is submitted, the agency, educational institution,
7 or grantee shall inform the party about their ability to seek
8 further redress under chapter 489.

9 (d) This section shall not be construed to limit the right
10 of a person to assert or seek redress for a claim arising under
11 chapter 489.

12 § -5 Retaliation, reporting, and immunity. (a) An
13 employee, volunteer, or youth shall not retaliate against a
14 victim or witness of bullying or a person who reports bullying.

15 (b) An employee or volunteer who has witnessed bullying in
16 violation of a bullying prevention policy, or has reliable
17 information that a person has been subjected to bullying in
18 violation of a bullying prevention policy, shall promptly report
19 the incident or information to the person designated by the
20 agency, educational institution, or grantee as responsible for
21 investigating the reports.



1 (c) An employee, volunteer, or youth who promptly and in
2 good faith reports an incident of, or information on, bullying
3 in compliance with the policy of the agency, educational
4 institution, or grantee shall be immune from a cause of action
5 for damages arising from the making of such report.

6 § -6 **Bullying prevention programs.** Following the
7 adoption of a bullying prevention policy, each agency,
8 educational institution, and grantee shall:

- 9 (1) Establish an annual bullying prevention program for
10 youth, which for each educational institution should
11 align with established health-education standards;
- 12 (2) Inform youth about their right to be free from
13 discrimination in public accommodations and education,
14 and of the remedies available for a violation of their
15 rights under chapter 489; and
- 16 (3) Provide annual training on bullying prevention to all
17 employees and volunteers who have significant contact
18 with youth.

19 § -7 **Reporting requirements.** (a) Each educational
20 institution shall provide to the governor, by a date determined
21 by the governor, an annual report regarding the aggregate



1 incidents of bullying, and any other information that the
2 governor determines is necessary or appropriate.

3 (b) By September 1, 2016, and biennially thereafter, the
4 governor shall:

- 5 (1) Review the programs, activities, services, and
6 policies established pursuant to this chapter of each
7 agency, educational institution, or grantee to
8 determine their effectiveness and whether the agency,
9 educational institution, or grantee is in compliance
10 with this chapter; and
- 11 (2) Report the findings to the legislature by December 31
12 of each year that a report is due, along with an
13 assessment of the current level and nature of bullying
14 in agencies, educational institutions, and grantees,
15 the department of education's evaluation of the
16 sufficiency of funding for bullying prevention
17 programs, and any recommendations for legislative,
18 policy, or programmatic change to better address
19 bullying in the State."

20 SECTION 4. Section 302D-34, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) A public charter school shall not discriminate
2 against any student or limit admission based on race, color,
3 ethnicity, national origin, religion, gender, including gender
4 identity or expression, sexual orientation, income level,
5 disability, level of proficiency in the English language, need
6 for special education services, or academic or athletic
7 ability."

8 SECTION 5. Section 489-2, Hawaii Revised Statutes, is
9 amended by amending the definition of "place of public
10 accommodation" to read as follows:

11 ""Place of public accommodation" means a business,
12 accommodation, refreshment, entertainment, recreation,
13 education, or transportation facility of any kind whose goods,
14 services, facilities, privileges, advantages, or accommodations
15 are extended, offered, sold, or otherwise made available to the
16 general public as customers, clients, or visitors. By way of
17 example, but not of limitation, place of public accommodation
18 includes facilities of the following types:

19 (1) A facility providing services relating to travel or
20 transportation;



- 1 (2) An inn, hotel, motel, or other establishment that
2 provides lodging to transient guests;
- 3 (3) A restaurant, cafeteria, lunchroom, lunch counter,
4 soda fountain, or other facility principally engaged
5 in selling food for consumption on the premises of a
6 retail establishment;
- 7 (4) A shopping center or any establishment that sells
8 goods or services at retail;
- 9 (5) An establishment licensed under chapter 281 doing
10 business under a class 4, 5, 7, 8, 9, 10, 11, or 12
11 license, as defined in section 281-31;
- 12 (6) A motion picture theater, other theater, auditorium,
13 convention center, lecture hall, concert hall, sports
14 arena, stadium, or other place of exhibition or
15 entertainment;
- 16 (7) A barber shop, beauty shop, bathhouse, swimming pool,
17 gymnasium, reducing or massage salon, or other
18 establishment conducted to serve the health,
19 appearance, or physical condition of persons;
- 20 (8) A park, a campsite, or trailer facility, or other
21 recreation facility;



1 (9) A comfort station; or a dispensary, clinic, hospital,
2 convalescent home, or other institution for the
3 infirm;

4 (10) A professional office of a health care provider, as
5 defined in section 323D-2, or other similar service
6 establishment;

7 (11) A mortuary or undertaking establishment; [~~and~~]

8 (12) A school, college, or educational institution; and

9 [~~(12)~~] (13) An establishment that is physically located
10 within the premises of an establishment otherwise
11 covered by this definition, or within the premises of
12 which is physically located a covered establishment,
13 and which holds itself out as serving patrons of the
14 covered establishment.

15 No place of public accommodation defined in this section
16 shall be requested to reconstruct any facility or part thereof
17 to comply with this chapter."

18 SECTION 6. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2015-2016 and
21 the same sum or so much thereof as may be necessary for fiscal



1 year 2016-2017 for anti-bullying and suicide prevention efforts
2 in Hawaii's public schools.

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

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

8 SECTION 8. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect upon its approval;
11 provided that section 6 shall take effect on July 1, 2015.

12



Report Title:

Education; Youth; Students; Youth-serving Agencies; Bullying; Cyberbullying; Educational Institutions; Appropriation

Description:

Requires educational institutions and all youth-serving agencies to create and implement anti-bullying policies. Establishes a bullying prevention task force to provide guidance. Outlines the requirements for each institution or agency's policy and specifies reporting, investigation, and appeals procedures involving incidents of bullying. Provides immunity to reporters of bullying in the event of a cause of action for damages arising from the making of a report. Requires institutions and agencies to establish annual bullying prevention programs for youth and to provide bullying prevention training to all employees and volunteers who have significant contact with youth. Requires institutions and agencies to report aggregate figures regarding bullying to the governor and requires the governor to report to the legislature regarding bullying and the effectiveness of anti-bullying policies. Appropriates funds for anti-bullying and suicide prevention efforts in the public schools. (SD1)

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