



**LATE**

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/04/2015  
**Time:** 01:30 PM  
**Location:** CR229  
**Committee:** Senate Education

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 0865 RELATING TO BULLYING.

**Purpose of Bill:** 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.

**Department's Position:**

The Department of Education (Department) appreciates the intent of SB 865 to protect youth in Hawaii and offers the following comments.

● **Anti-bullying policies**

Board of Education (Board) Policy 4200, "Student Safety and Welfare Policy" and Board Policy 4211, "Anti-Harassment, Anti-Bullying, and Anti-Discrimination against Student(s) by Employee" were approved on 10/70 and 2/21/08, respectively.

Board Policy 4200 states, *[t]he Department of Education shall provide a caring environment conducive to the physical, mental, social, and emotional well-being of students while they are participating in school activities. Attention shall be given to the personal safety of each student during these activities and such attention shall include instruction in safety practices and*

*attitudes; proper maintenance of buildings, grounds, and equipment; establishment and enforcement of proper rules of conduct at each school including a no use, no possession, and no distribution of tobacco, alcohol and other nonprescription drugs; and provision of services to safeguard students from the deviant behavior of those who fail to conform to standards of conduct compatible with the best interests of all.*

Further, Board Policy 4211 *strictly prohibits discrimination, including harassment, by any employee against a student based on the following protected classes: race, color, national origin, sex, physical or mental disability, and/or religion. In addition to the above protected basis, the Department of Education strictly prohibits any form of harassment and/or bullying based on the following: gender identity and expression, socioeconomic status, physical appearance and characteristic, and sexual orientation.*

- **Bullying Prevention Task Force**

The Department respectfully suggests that the intent of the working group be adjusted to allow for a broader, ongoing education discussion for all related agencies to collaboratively address, explore, and work on various issues related to the well-being of students.

- **Protected Activity**

Board Policy 4211 *expressly prohibits retaliation against anyone engaging in a protected activity. Protected activity is defined as anyone who files a complaint of harassment, bullying, or discrimination; participates in complaint or investigation proceedings dealing with harassment, bullying, or discrimination under this policy; inquires about his or her rights under this policy; or otherwise opposes acts covered under this policy.*

- **Procedures**

The Hawaii Administrative Rules (HAR) Title 8 Chapter 19, *Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism.* This Chapter addresses the identification, investigation procedures, disciplinary consequences, and the due process procedures for any student misconduct.

When a student's behavior violates established policies, rules, or regulations of the Department, state or local laws, the Department may take appropriate disciplinary action in accordance with this Chapter. This Chapter governs acts of bullying in the Department.

Currently, the bill's proposed language for many definitions, processes and procedures are inconsistent with Chapter 19.

- **Programs and training**

This proposed measure also would require 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.

To fulfill this mandate, additional funding would be necessary to support the Department and schools in expanding programs for students focused on anti-bullying efforts and for the increased professional development training for school personnel and programs.

The Department would like to request that the implementation of SB 865 not replace or adversely impact priorities indicated in our Executive Budget.

- **Data**

Schools implement a proactive student behavior support system that enables students to reach their full potential, with a focus on personalized classroom climate and instruction, family/community networks, crisis assistance, Response to Intervention (RTI) (screening, progress monitoring, data-driven decision making and deployment of supports) and positive behavioral interventions and supports (PBIS) as a preventive approach to bullying, cyberbullying and harassment in supporting student behaviors.

The Department collects data: 1) to provide an evolving snapshot of the academic and social health of the public education system, and 2) to create real-time feedback for teachers and administrators to help them regularly assess student performance, and create learning interventions when and where students need them.

The Department's Electronic Comprehensive Student Support System (eCSSS) includes student information relating to progress monitoring, intervention and RTI management, along with support program data, action plans for at-risk students and early warning system. The Longitudinal Data System provides reports and dashboards where teachers and administrators can access data about student academic progress and performance to customize supports designed to meet the specialized learning of the student.

The new features of the recently enhanced Early Warning System allow schools to easily analyze specific indicators, including but not limited to, effective communication and community contribution to implement preventative measures and supports to ensure student success both in and beyond the classroom.

Given the substantial policies and programs currently in place, the Department respectfully suggests that the proposed mandates reflected in SB 865 are not necessary at this time. Should it be adopted, the Department requests that the requirements be made voluntary and subject to the availability of adequate sustained funding.



# Position Statement

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## BULLYING PREVENTION AND INTERVENTION IN SCHOOLS

The National Association of School Psychologists (NASP) supports equal access to education and mental health services for all youth within public, charter, and private schools. Aggression and intimidation violate the right of students to receive equal educational opportunities and subsequently reduce academic engaged time. Failure to address bullying in the school setting perpetuates an environment that is unsafe and not supportive of academic achievement, social-emotional development, and mental health. NASP believes that school psychologists are ethically obligated to ensure that all students have an equal opportunity to learn and develop in an environment free from discrimination, harassment, aggression, violence, and abuse.

The U.S. Department of Education has called for a united effort to address and prevent bullying. It takes an entire school community to create an inviting school climate where everyone feels that they belong and are safe. Working together, administrators, teachers, school staff, parents, and students can help stop bullying in schools.

### DEFINITION OF BULLYING

Bullying is defined as: (a) the use of force or coercion to negatively affect others; (b) involving an imbalance of social, physical, and/or emotional power; and (c) involving willful and repeated acts of harm. Bullying behaviors may be persistently directed at the target based on a student's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, physical appearance, sex, or other distinguishing characteristics. Bullying behavior is not limited to children and adolescents and can also occur among the adults in children's lives.

The following types of bullying are most often seen among children and adolescents:

- Verbal—includes name-calling; insults; making racist, sexist, or homophobic jokes, remarks, or teasing; using sexually suggestive or abusive language; threats of violence; and offensive remarks. This is the most common form of bullying.
- Physical—includes hitting, kicking, pinching, punching, scratching, spitting, other physical aggression, and damage to or taking someone else's belongings.
- Relational/Social—includes spreading untrue stories about someone, excluding from social groups (social isolation), and being made the subject of malicious rumors.
- Electronic—any type of bullying that is carried out via an electronic medium such as text messaging, cell phone calls, pictures or video clips via mobile phone cameras, e-mail, chat rooms, social networking sites, and other websites.

## **CURRENT TRENDS IN BULLYING**

Bullying has gained unprecedented national attention in the past years due to multiple child and adolescent suicides linked to bully perpetration. The 2009 Youth Risk Behavior Survey (YRBS) indicated that 20% of students had experienced some form of bullying on school property during the 12 months before the survey (CDC, 2010). Bullying is not a new concern; various forms of bullying have been prevalent in schools for decades. Cyberbullying or electronic aggression is becoming an emerging public health issue that is creating unique and difficult challenges for school personnel. Although estimates vary, 10–40% of youth reported being victims of some form of cyberbullying, and upwards of 20% admitted to cyberbullying others (Hinduja & Patchin, 2010). Researchers have found that 27% of youth who were victims of cyberbullying have also carried a weapon to school (David-Ferdon & Hertz, 2007; Ybarra, Diener-West, & Leaf, 2007).

Bullying is associated with increases in suicide risk among victims of bullying (Kim, Leventhal, Koh, & Boyce, 2009; Suicide Prevention Resource Center, 2011), as well as increases in depression and other problems associated with suicide (Fekkes, Pipers, & Verloove-Vanhorcik, 2004; Gini & Pozzoli, 2009). Targets of cyberbullying reported higher levels of depression than victims of face-to-face bullying (Wang, Nansel, & Iannotti, 2010). Over time, bullying is strongly linked to victims' anger, frustration, and violent behaviors (Nansel, Overpeck, Haynie, Ruan, & Scheidt, 2003). Particularly in school settings, bullying and bystander silence create an unwelcome and increasingly intimidating environment (Orpinas, Horne, & Staniszewski, 2003), which may lead to violent events occurring in the schools. In addition, a recent review of the research showed that LGBTQ (lesbian, gay, bisexual, transgender, and questioning) youth experienced more bullying (including physical violence and injury) at school than their heterosexual peers (Berlan, Corliss, Field, Goodman, & Austin, 2010; Bontempo & D'Augelli, 2002; Garofalo, Wolf, Kessel, Palfrey, & DuRant, 1998). There is a link between bullying and suicidal behavior in LGBTQ youth, especially among those with cross-gender appearance, traits, or behaviors (Haas et al., 2011). Similarly, an extensive literature review completed for the 2011 briefing paper from the National Council on Disability revealed that students with disabilities are significantly more likely than their peers to be the victims of bullying (National Council on Disability, 2011; Rose, Espelage, & Monda-Amaya, 2009).

### **Legal Implications**

Because of the widespread problem of bullying, 45 states have laws on bullying and 22 states have adopted cyberbullying statutes (Children's Safety Network, 2011). However, fewer than half of the statutes and laws offer guidance about whether schools may intervene in bullying involving electronic communication (Anti-Defamation League, 2009). This has led to confusion over who is responsible for resolving these conflicts and who has jurisdiction to apply consequences. Due to the escalation of cyberbullying and increased difficulties finding the specific source of the bullying, parents are looking to schools for justice and protection (Children's Safety Network, 2011).

In addition, bullying behaviors can also constitute civil rights violations. The U.S. Department of Education's Office for Civil Rights (OCR) has recognized that some students' misconduct may trigger responsibilities under one or more federal antidiscrimination laws enforced by the OCR. Specifically, the relevant statutes include:

- Title IV of the Civil Rights Act of 1964 (Title IV) which prohibits discrimination on the basis of race, color, or national origin;
- Title IX of the Education Amendments of 1972 (Title IX) which prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which both prohibit discrimination on the basis of disability.

In October 2010, the Office for Civil Rights indicated that “School districts may violate these civil rights statutes and the Department’s implementing regulations when peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees” (OCR, 2010, p. 1). The harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Thus, schools must do more than take steps to end the harassment; schools must also “eliminate any hostile environment and its effects, and prevent the harassment from occurring” (OCR, 2010, p. 2–3).

## **RECOMMENDED SCHOOL-BASED BULLYING PREVENTION AND INTERVENTION**

Start prevention early. Bullying behaviors can start in preschool. Intervening early can help equip students with the social and emotional skills that will help prevent later bullying behaviors and will help set a foundation for healthy social relationships. In fact, bullying programs appear to be most effective in the younger years. Teaching social skills under the auspices of teaching respectful behavior might be a way of approaching social–emotional instruction (e.g., school-wide positive behavior support).

- Develop antibullying policies. While policies do not necessarily change behaviors, they stipulate that bullying in the school environment will not be tolerated and they delineate consequences for bullying others.
- Understand the connection between bullying and mental health problems. Research has consistently shown that bullies, targets, and bully-targets have poor mental health prognoses. Involvement in bullying has been linked to depression, anxiety, increased school drop-out rates, and increased suicide ideation, thus impacting academic achievement.
- Keep up with technology. Bullying often takes place in areas hidden from adult supervision, and young people are using social media and new technologies to bully others. Both bullying prevention programs and suicide prevention programs need to be aware of the realities of electronic forms of bullying.
- Pay special attention to the needs of LGBTQ (lesbian, gay, bisexual, transgender, and questioning) youth. Young people who do not conform to traditional gender expectations are at increased risk for being bullied and suicide. Schools need to create an environment that promotes tolerance and respect for diversity.
- Use a comprehensive approach. Focus on mental health services for youth suffering from depression and anxiety as well as implement evidence-based interventions that improve the school environment and provide supports to bullies, targeted students, and families to reduce bullying.

- Focus on the role of witnesses. Convey the attitude that students who witness bullying are responsible, if possible, to help stop harassment and intimidation. Teach all students the specific skills necessary to help prevent and respond to bullying.

## **ROLE OF THE SCHOOL PSYCHOLOGIST**

School psychologists are uniquely positioned to use their knowledge of psychology, education, and child development and their consultation and advocacy skills to affect policies and practices within the schools. Because school psychologists work directly with students, as well as with staff, parents, and administrators, practitioners are encouraged to take a leadership role in developing comprehensive approaches to bullying prevention and school-wide climate improvement (Swearer, Espelage, & Napolitano, 2009). School psychologists can have a direct role in preventing bullying through direct and indirect services provided to children, families, and schools, including:

- Developing school-wide prevention activities (e.g., PBIS) or more targeted prevention activities to help students develop appropriate social skills;
- Counseling victims of bullying in all its forms to ensure that they do not internalize the effects of repeated harassment;
- Conduct informative social–emotional assessments of student perpetrators of bullying behavior at school;
- Develop interventions to help eliminate bullying behaviors and replace these with positive, prosocial behaviors;
- Provide consultation to the parents/guardians of bullies and targets to offer them effective resources, supportive interventions, and strategies for managing behavior.

## **PRACTICES THAT PERMEATE ALL ASPECTS OF SERVICE DELIVERY**

- Train the entire school staff in developing and implementing positive behavioral interventions that prevent bullying, reduce bystander involvement, and promote students’ social–emotional development using discipline-related incidents as potential learning opportunities (teachable moments).
- Provide group training and consultation to help schools form effective safety and crisis teams.
- Use federal and state policies to help educate district and school professionals on antibullying policies that can provide clear and consistent guidelines for bullying behaviors.
- Consult with school staff in implementing social skills programs and other programs that teach peaceful ways to resolve conflicts.
- Participate in and facilitate evidence-based procedures to respond to bullying behavior.

## **FOUNDATIONS OF SCHOOL PSYCHOLOGISTS’ SERVICE DELIVERY**

- Serve on district and school safety and crisis teams to help implement and evaluate comprehensive safety initiatives.
- Participate in conducting a needs assessment and program evaluation regarding aggression, violence, and crisis needs at the school and district levels.

To ensure that school psychologists are well prepared to provide leadership in school climate and bullying prevention, NASP supports efforts to provide school psychologists with the requisite

knowledge and skills to design and implement prevention and school climate programs that are supported by rigorous empirical research. These skills are specified in NASP's *Model for Comprehensive and Integrative School Psychological Services*, and NASP advocates for their inclusion in training and practice standards of all state credentialing bodies.

## SUMMARY

Bullying has gained unprecedented national attention and plays a role in the daily practice of school psychologists across all educational settings. Research highlights the correlation between bullying and mental health issues, including anxiety, depression, and suicide. Federal and state lawmakers are addressing this growing epidemic and requiring schools to detail their preventive and responsive efforts. Prevention strategies, multitiered positive behavioral supports, and school-wide policies that define bullying and outline interventions are a few examples of best practices. School psychologists are encouraged to take an active leadership role in both the student level and systems level service delivery of bullying prevention. Instances of bullying should be thoroughly investigated and, in extreme cases of violence and aggression, a threat assessment could be pursued to evaluate risk of harm posed to all participants, both to themselves and to others. In addition, research and program evaluation are critical elements of a comprehensive approach to prevention efforts.

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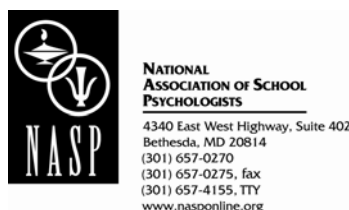


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95-954 Makakilo Dr. #71 Kapolei, HI 96707 Email: [Rainbowfamily808@gmail.com](mailto:Rainbowfamily808@gmail.com) Phone: 808-779-9078 Fax: 808672-6347

February 3, 2015

Senate Committee on Education

RE: HB 845 – Safe Schools/Bullying

IN STRONG SUPPORT

Aloha Chair, Vice Chair and Members,

As President of Rainbow Family 808, a group of straight, LGBT families focused on peace and justice through education, we strongly SUPPORT SB 865 because all students and minors have a right to a safe, harassment free environment, especially in schools and on school property.

Since 1995, I have been advocating as a Social Worker for Safe Schools and Zero Tolerance in Hawaii. While there exists anti-bullying policies on DOE literature, the criminal violation of Safe Schools go touched. As a substitute teacher for 5 years, I saw first hand these violations from Waipahu High to Nanakuli High. I documented every violation until I decided that my own personal safety was at risk and I left Substituting.

Rainbow Family 808 STRONGLY SUPPORT HB 865 in a speedy and just manor.

Mahalo nui loa

Carolyn Martinez Golojuch, MSW - President

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**SB865**

Submitted on: 2/5/2015

Testimony for EDU/HSB on Feb 5, 2015 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dayna Kitamura	Individual	Oppose	No

Comments:

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**SB865**

Submitted on: 2/5/2015

Testimony for EDU/HSB on Feb 5, 2015 13:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sherry Campagna	Individual	Support	No

Comments:

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