
A BILL FOR AN ACT

RELATING TO BULLYING.

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

1 SECTION 1. The legislature finds that youths participating
2 in educational and recreational activities have the right to be
3 free from bullying. Bullying, and the related problems of
4 harassment and retaliation, inhibit a young person's ability to
5 learn and an educational or recreational activity provider's
6 ability to teach students in a safe environment. In extreme
7 cases, persistent bullying or harassment may result in suicidal
8 ideation that drives a youth to inflict self-harm. In contrast,
9 a safe and civil environment helps youths to learn and thrive.
10 Therefore, it is imperative that providers of educational and
11 recreational activities to youths in the State establish and
12 maintain clear and consistent policies and procedures to address
13 these problematic behaviors. Additionally, these providers must
14 ensure that employees and staff who work closely with youths
15 receive appropriate training on how to recognize and address
16 bullying, harassment, and retaliation.



1 The purpose of this Act is to require all entities that
 2 provide educational or recreational activities to youth to
 3 establish, maintain, and enforce written policies and procedures
 4 on bullying and related behaviors, and provide staff with
 5 appropriate annual training, regardless of whether the entity
 6 receives any government funding.

7 SECTION 2. The Hawaii Revised Statutes is amended by
 8 adding a new chapter to title 10 to be appropriately designated
 9 and to read as follows:

10 "CHAPTER

11 BULLYING PREVENTION AND RESPONSE

12 § -1 **Definitions.** As used in this chapter, unless the
 13 context clearly indicates otherwise:

14 "Bullying" means any written, verbal, graphic, electronic,
 15 or physical act that:

- 16 (1) May be based on a youth's actual or perceived race;
 17 sex, including gender identity or gender expression;
 18 sexual orientation; color; religion; ancestry;
 19 disability; any other distinguishing characteristic;
 20 or the youth's association with a person or group of



1 persons with one or more of the actual or perceived
2 foregoing characteristics; and
3 (2) Substantially interferes with the youth's ability to
4 participate in, or benefit from, the services or
5 activities provided by a covered entity, or is
6 sufficiently severe, persistent, or pervasive that it
7 creates an intimidating, threatening, or abusive
8 educational or recreational environment.

9 "Covered entity" means any agency or organization, or a
10 contractor acting on the agency or organization's behalf, that
11 provides educational or recreational activities to youth,
12 including public and private schools, sports organizations,
13 youth services providers, after-school programs, and summer fun
14 programs, regardless of whether the entity receives any
15 government funding.

16 "Disability" means the state of having a physical or mental
17 impairment that substantially limits one or more major life
18 activities, having a record of such an impairment, or being
19 regarded as having such an impairment. The term does not
20 include alcohol or drug use that impairs a person's activities
21 or threatens the property or safety of others.



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

5 "Employee" means an individual who performs a function for
6 a covered entity and receives compensation for the performance
7 of that function.

8 "Gender expression" means the manner in which a person
9 represents or expresses gender to others, often through
10 behavior, clothing, hairstyles, activities, voice, or
11 mannerisms.

12 "Gender identity" means a person's internal, deeply-felt
13 sense of being male, female, or other, whether or not that
14 gender-related identity is different from the person's
15 physiology or assigned sex at birth.

16 "Harassment" means any threatening, insulting, or
17 aggressive conduct, which may be written, verbal, or physical,
18 that is directed against a youth. Harassing conduct must have
19 the effect of:

- 20 (1) Placing a youth in reasonable fear of harm to the
21 youth's person or damage to the youth's property;



1 (2) Interfering with a youth's performance, opportunities,
2 or benefits; or

3 (3) Disrupting the orderly operation of a covered entity.

4 "Party" means a person accused of bullying, harassment, or
5 retaliation, a target of bullying, harassment, or retaliation,
6 or a parent or legal guardian of either an accused or targeted
7 person.

8 "Retaliation" means an adverse action taken against an
9 employee, volunteer, or youth because that person filed a
10 complaint under the covered entity's bullying prevention policy;
11 participated in a complaint or investigation proceeding under
12 the bullying prevention policy; inquired about a person's rights
13 under this chapter; or otherwise opposed acts covered under this
14 chapter. An adverse action is any action that would dissuade a
15 reasonable person from making or supporting a complaint under
16 this chapter.

17 "Sexual orientation" means a person's emotional and sexual
18 attraction to another person based on the gender of the other
19 person.

20 "Youth" means an individual under the age of eighteen who
21 is enrolled in a public school, public charter school, or



1 private school, or who accesses the services or programs
2 provided by a covered agency.

3 **§ -2 Bullying prevention policy.** (a) No later than
4 July 1, 2021, a covered entity shall establish a bullying
5 prevention policy that shall be enforced:

- 6 (1) On the entity's property;
- 7 (2) At entity-sponsored functions;
- 8 (3) On the entity's transportation or transportation that
9 the entity sponsors; and
- 10 (4) In the context of electronic communications, to the
11 extent that the communication is directed at a youth
12 and meets the definition of bullying, harassment, or
13 retaliation under section -1.

14 (b) A covered entity's policy shall include:

- 15 (1) The definitions of bullying, harassment, and
16 retaliation as set forth in section -1;
- 17 (2) A statement prohibiting bullying, harassment, and
18 retaliation;
- 19 (3) A statement that the policy applies to participation
20 in functions sponsored by the entity;



- 1 (4) An expected code of conduct for the entity's
2 employees, volunteers, youths, and the parents or
3 legal guardians of youths;
- 4 (5) A list of consequences that may result from an
5 identified incident of bullying, harassment, or
6 retaliation; provided that the consequences are
7 designed to:
- 8 (A) Appropriately correct the prohibited conduct;
- 9 (B) Prevent another occurrence of the prohibited
10 conduct;
- 11 (C) Provide a more severe penalty for repeat offenses
12 and incidents of retaliation;
- 13 (D) Protect the target of the bullying, harassment,
14 or retaliation; and
- 15 (E) Be flexible so that the consequences may be
16 applied to each incident individually and be
17 sufficiently varied in method and severity based
18 on the nature of the incident, developmental age
19 of the person engaging in the prohibited conduct,
20 and any history of problem behavior by the person
21 engaging in the prohibited conduct;



1 (6) A procedure for reporting bullying, harassment, and
2 retaliation that allows anonymous reporting; provided
3 that a covered entity shall not formally respond
4 solely on the basis of an anonymous report;

5 (7) A procedure for prompt investigation of reports of
6 bullying, harassment, and retaliation, or other
7 violations of the covered entity's policy, including
8 dissemination of the name and contact information of
9 the person responsible for receiving reports;

10 (8) A procedure for prompt notification to the parent or
11 legal guardian of the youth alleged to have committed
12 a prohibited act and the parent or legal guardian of
13 the youth targeted by the alleged act; provided that
14 if an administrator or director of the covered entity
15 believes, in the administrator or director's
16 professional capacity, that contacting the parent or
17 legal guardian would endanger the health or well-being
18 of a youth, the administrator or director may delay
19 the contact as appropriate; and

20 (9) An appeals process for a party who is not satisfied
21 with the outcome of an initial investigation.



1 (c) A covered entity shall disseminate its bullying
2 prevention policy to youths and their parents or legal
3 guardians, post the policy on its website, and ensure that any
4 of its publications aimed at potential employees or
5 participating youths contain a statement of the policy.

6 **§ -3 Bullying prevention; annual training.** Following
7 the adoption of a bullying prevention policy, a covered entity
8 shall:

9 (1) Provide annual training to the entity's employees and
10 volunteers who have significant contact with youth on
11 bullying, harassment, retaliation, and the entity's
12 bullying prevention policy; provided that the training
13 on bullying, harassment, and retaliation align with
14 national prevention education standards or best
15 practices; and

16 (2) Require satisfactory completion of the training in
17 order to qualify for any entity-required
18 recertification procedure.

19 **§ -4 Retaliation; reporting; immunity.** (a) An
20 employee, volunteer, or youth shall not retaliate against a



1 target or witness of bullying, harassment, or retaliation or a
2 person who reports any of those acts.

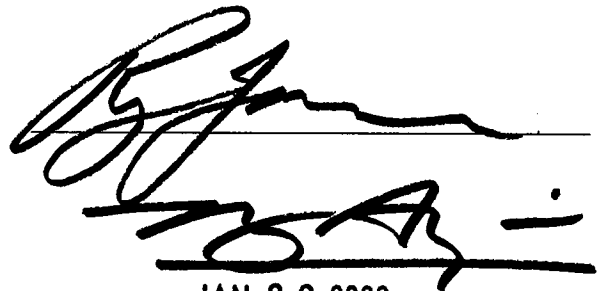
3 (b) An employee or volunteer who has witnessed an incident
4 of bullying, harassment, or retaliation in violation of the
5 covered entity's bullying prevention policy, or who has reliable
6 information that a person has been subjected to acts prohibited
7 by the policy, shall promptly report the incident or information
8 to the person designated by the entity to receive reports.

9 (c) An employee, volunteer, or youth who promptly and in
10 good faith reports an incident of, or information on, a
11 prohibited act in compliance with a bullying prevention policy
12 adopted pursuant to section -2 shall be immune from a cause
13 of action for damages arising from the report."

14 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 22 2020



H.B. NO. 2483

Report Title:

Educational or Recreational Activities; Bullying; Harassment; Retaliation; Training

Description:

Requires all entities that provide educational or recreational activities to youths to establish, maintain, and enforce written policies and procedures on bullying, harassment, and retaliation, and provide staff with appropriate annual training, regardless of whether the entity receives any government funding.

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