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# 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 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 to be  
7 determined by the department of education;
- 8 (6) A procedure for reporting bullying, harassment, and  
9 retaliation that allows anonymous reporting; provided  
10 that a covered entity shall not formally respond  
11 solely on the basis of an anonymous report;
- 12 (7) A procedure for prompt investigation of reports of  
13 bullying, harassment, and retaliation, or other  
14 violations of the covered entity's policy, including  
15 dissemination of the name and contact information of  
16 the person responsible for receiving reports;
- 17 (8) A procedure for prompt notification to the parent or  
18 legal guardian of the youth alleged to have committed  
19 a prohibited act and the parent or legal guardian of  
20 the youth targeted by the alleged act; provided that  
21 if an administrator or director of the covered entity



1 believes, in the administrator or director's  
2 professional capacity, that contacting the parent or  
3 legal guardian would endanger the health or well-being  
4 of a youth, the administrator or director may delay  
5 the contact as appropriate; and

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

8 (c) A covered entity shall disseminate its bullying  
9 prevention policy to youths and their parents or legal  
10 guardians, post the policy on its website, and ensure that any  
11 of its publications aimed at potential employees or  
12 participating youths contain a statement of the policy.

13 § -3 **Bullying prevention; annual training.** Following  
14 the adoption of a bullying prevention policy, a covered entity  
15 shall:

16 (1) Provide annual training to the entity's employees and  
17 volunteers who have significant contact with youth on  
18 bullying, harassment, retaliation, and the entity's  
19 bullying prevention policy; provided that the training  
20 on bullying, harassment, and retaliation aligns with





1 national prevention education standards or best  
2 practices; and

3 (2) Require satisfactory completion of the training in  
4 order to qualify for any entity-required  
5 recertification procedure.

6 § -4 Retaliation; reporting; immunity. (a) An  
7 employee, volunteer, or youth shall not retaliate against a  
8 target or witness of bullying, harassment, or retaliation or a  
9 person who reports any of those acts.

10 (b) An employee or volunteer who has witnessed an incident  
11 of bullying, harassment, or retaliation in violation of the  
12 covered entity's bullying prevention policy, or who has reliable  
13 information that a person has been subjected to acts prohibited  
14 by the policy, shall promptly report the incident or information  
15 to the person designated by the entity to receive reports.

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

21 SECTION 3. This Act shall take effect on July 1, 2050.



**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. Takes effect on 7/1/2050. (HD1)

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