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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 youth 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 youth to learn and thrive.  
10 Therefore, it is imperative that providers of educational and  
11 recreational activities to youth 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 youth  
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 educational or recreational  
10 organization serving as the primary custodian of youth on a  
11 regular basis.

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

18 "Electronic communication" means a communication  
19 transmitted by means of an electronic device, including a  
20 telephone, cellular phone, computer, tablet, pager, or video or  
21 audio recording.



1 "Employee" means an individual who performs a function for  
2 a covered entity and receives compensation for the performance  
3 of that function.

4 "Gender expression" means the manner in which a person  
5 represents or expresses gender to others, often through  
6 behavior, clothing, hairstyles, activities, voice, or  
7 mannerisms.

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

12 "Harassment" means any threatening, insulting, or  
13 aggressive conduct, which may be written, verbal, or physical,  
14 that is directed against a youth. To be considered harassing  
15 conduct, the conduct shall have the effect of:

- 16 (1) Placing a youth in reasonable fear of harm to the  
17 youth's person or damage to the youth's property;
- 18 (2) Interfering with a youth's performance, opportunities,  
19 or benefits; or
- 20 (3) Disrupting the orderly operation of a covered entity.



1 "Party" means a person accused of bullying, harassment, or  
2 retaliation; a target of bullying, harassment, or retaliation;  
3 or a parent or legal guardian of either an accused or targeted  
4 person.

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

14 "Sexual orientation" means a person's emotional and sexual  
15 attraction to another person based on the gender of the other  
16 person.

17 "Youth" means an individual under the age of eighteen who  
18 is enrolled in a public school, public charter school, or  
19 private school, or who accesses the services or programs  
20 provided by a covered agency.



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

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

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

- 13           (1)   The definitions of bullying, harassment, and  
14           retaliation as set forth in section   -1;
- 15           (2)   A statement prohibiting bullying, harassment, and  
16           retaliation;
- 17           (3)   A statement that the policy applies to participation  
18           in functions sponsored by the covered entity;
- 19           (4)   An expected code of conduct for the covered entity's  
20           employees, volunteers, youths, and the parents or  
21           legal guardians of youths;



- 1 (5) A list of consequences that may result from an  
2 identified incident of bullying, harassment, or  
3 retaliation; provided that the consequences are to be  
4 determined by the department of education;
- 5 (6) A procedure for reporting bullying, harassment, and  
6 retaliation that allows anonymous reporting; provided  
7 that a covered entity shall not formally respond  
8 solely on the basis of an anonymous report;
- 9 (7) A procedure for prompt investigation of reports of  
10 bullying, harassment, and retaliation, or other  
11 violations of the covered entity's policy, including  
12 dissemination of the name and contact information of  
13 the person responsible for receiving reports;
- 14 (8) A procedure for prompt notification to the parent or  
15 legal guardian of the youth alleged to have committed  
16 a prohibited act and the parent or legal guardian of  
17 the youth targeted by the alleged act; provided that  
18 if an administrator or director of the covered entity  
19 believes, in the administrator or director's  
20 professional capacity, that contacting the parent or  
21 legal guardian would endanger the health or well-being



1 of a youth, the administrator or director may delay  
2 the contact as appropriate; and

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

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

10 § -3 **Bullying prevention; annual training.** Following  
11 the adoption of a bullying prevention policy, a covered entity  
12 shall:

13 (1) Provide annual training to the covered entity's  
14 employees and volunteers who have significant contact  
15 with youth on bullying, harassment, retaliation, and  
16 the covered entity's bullying prevention policy;  
17 provided that the training on bullying, harassment,  
18 and retaliation aligns with national prevention  
19 education standards or best practices; and





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

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

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

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

19           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 youth 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. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

