

JAN 18 2019

A BILL FOR AN ACT

RELATING TO BULLYING.

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

1 SECTION 1. Section 302A-101, Hawaii Revised Statutes, is
2 amended by adding three new definitions to be appropriately
3 inserted and to read as follows:

4 "Bullying" means any intentional verbal, physical,
5 written, or electronically transmitted act or conduct that:

6 (1) Is done by a public school student, a public school
7 volunteer or employee, or a department volunteer or
8 employee to insult, taunt, or challenge another public
9 school student, public school volunteer or employee,
10 or department volunteer or employee;

11 (2) Is severe, pervasive, or persistent, as determined by
12 a reasonable person under the circumstances; and

13 (3) Has any of the following effects, as determined by a
14 reasonable person under the circumstances:

15 (A) Places the recipient in reasonable fear of:



S.B. NO. 1013

- 1 (i) Substantial harm to the recipient's
- 2 emotional, psychological, or physical well-
- 3 being;
- 4 (ii) Substantial damage to the recipient's
- 5 property;
- 6 (iii) Substantial harm to the emotional,
- 7 psychological, or physical well-being of a
- 8 person other than the recipient; or
- 9 (iv) Substantial damage to the property of a
- 10 person other than the recipient;
- 11 (B) Incites, solicits, or coerces an individual or
- 12 group of individuals to cause or place the
- 13 recipient in reasonable fear of:
- 14 (i) Substantial harm to the recipient's
- 15 emotional, psychological, or physical well-
- 16 being;
- 17 (ii) Substantial damage to the recipient's
- 18 property;
- 19 (iii) Substantial harm to the emotional,
- 20 psychological, or physical well-being of a
- 21 person other than the recipient; or



S.B. NO. 1013

1 (iv) Substantial damage to the property of a
2 person other than the recipient; or

3 (C) Creates an intimidating, threatening, or abusive
4 educational environment for the recipient.

5 "Electronically transmitted act or conduct" means an act or
6 conduct that involves the transmission of electronic data,
7 including but not limited to words, drawings, pictures, video,
8 or audio files, through a computer, computer network system,
9 other network system, cellular phone, or other similar
10 electronic device that has the capability of sending and
11 receiving data.

12 "Harassment" means the act of bullying, annoying, or
13 alarming a public school student, a public school volunteer or
14 employee, or a department volunteer or employee by engaging in
15 conduct that includes but is not limited to:

16 (1) Striking, shoving, kicking, or otherwise touching a
17 person in an offensive manner or subjecting such
18 person to offensive physical contact;

19 (2) Insulting, taunting, or challenging another person in
20 a manner likely to provoke a violent response;



S.B. NO. 1013

- 1 (3) Making verbal or non-verbal expressions that cause
- 2 another person to feel uncomfortable, pressured,
- 3 threatened, or in danger:
- 4 (A) Because of reasons that include but are not
- 5 limited to the person's race, color, national
- 6 origin, ancestry, sex, including gender identity
- 7 and expression, religion, disability, or sexual
- 8 orientation;
- 9 (B) That creates an intimidating, hostile, or
- 10 offensive educational environment, or interferes
- 11 with the education of a student; or
- 12 (C) Otherwise adversely affects the educational
- 13 opportunity of a student or students;
- 14 (4) Name calling, making rude gestures, insults, or
- 15 teasing which causes another person to feel
- 16 humiliated, intimidated, threatened, or embarrassed;
- 17 (5) Making a telephone call without purpose of legitimate
- 18 communication;
- 19 (6) Making repeated communications anonymously, at
- 20 extremely inconvenient hours, or in offensively coarse
- 21 language on campus or other department of education



1 premises, on department of education transportation,
 2 or during a department of education sponsored activity
 3 or event on or off school property;

4 (7) Causing fear to prevent another person from gaining
 5 legitimate access to or use of school buildings,
 6 facilities, services, or grounds including restroom
 7 facilities; or

8 (8) Physically harming, physically restraining,
 9 threatening, or stalking another person."

10 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
 11 amended by adding a new part to be appropriately designated and
 12 to read as follows:

13 "PART . BULLYING PREVENTION AND RESPONSE ACTION PLAN
 14 §302A- Bullying prevention and response action plan.

15 (a) The board shall develop a bullying prevention and response
 16 action plan to inform public school students, public school
 17 employees and volunteers, and department employees and
 18 volunteers of policies and procedures for:

19 (1) Prevention of and education regarding bullying,
 20 harassment, and retaliation in the department and in
 21 public schools;



S.B. NO. 1013

- 1 (2) Reporting bullying and harassment to the department,
2 board, or law enforcement agencies, as appropriate;
- 3 (3) Reporting bullying or harassment to the parents of the
4 public school students who committed or were affected
5 by bullying or harassment;
- 6 (4) Investigation of alleged bullying or harassment by the
7 department if the alleged bullying or harassment
8 occurred in a public school or by the board if the
9 alleged bullying or harassment occurred in the
10 department;
- 11 (5) Preservation and documentation of evidence of bullying
12 and harassment in the department or public schools;
- 13 (6) Mediation, non-punitive response, or other alternative
14 dispute resolution for conduct occurring between
15 public school students, employees, or volunteers of
16 equal power; provided that no public school student,
17 employee, or volunteer shall be required to accept
18 mediation, non-punitive response, or other alternative
19 dispute resolution in lieu of reporting to law
20 enforcement agencies if the act or conduct may
21 reasonably constitute bullying or harassment;



1 (7) Referral, if appropriate, of public school students,
2 public school employees or volunteers, or department
3 employees or volunteers to outside resources or
4 counseling services to remedy any mental health,
5 social, or family challenges that arise from
6 harassment or bullying; and

7 (8) An appeal process for any party not satisfied with the
8 outcome of the department or board's investigation or
9 response.

10 (b) The board shall establish requirements for the
11 department to report to the board on the department's compliance
12 with any department administrative rules or applicable statutes
13 governing bullying and harassment and shall monitor the
14 department's compliance.

15 (c) The board shall review and update the bullying
16 prevention and response plan every twenty-four months to reflect
17 electronic and technological changes and incorporate best
18 practices in bullying prevention, education, investigation,
19 reporting, and resolution.

20 **§302A- Annual reporting requirements.** The board, or the
21 department as the board's designee, shall submit an annual



1 report on the bullying prevention and response action plan,
2 including any proposed legislation, to the legislature no later
3 than twenty days prior to the convening of each regular session
4 of the legislature, beginning with the regular session of 2020.
5 The report shall redact any names or other identifying
6 information that would identify any individual involved in an
7 alleged incidence of bullying or harassment. For each alleged
8 incident of bullying or harassment, the report shall include:

- 9 (1) A brief description of each act or conduct included in
10 the incident;
- 11 (2) The date or date range that the incident occurred;
- 12 (3) The date the incident was reported to the department
13 or board;
- 14 (4) The status of the investigation by the department or
15 board into the incident, as of the date of the report;
- 16 (5) The disposition of the investigation, as of the date
17 of the report;
- 18 (6) The number of days elapsed between the date the
19 incident was reported to the department or board and
20 the implementation of its response, if any;



S.B. NO. 1013

- 1 (7) Identification of the public school associated with
- 2 the incident;
- 3 (8) The disposition of any incident that was not
- 4 identified as resolved in the prior annual report to
- 5 the legislature; and
- 6 (9) Any other information the board or department deems
- 7 pertinent; provided that in no case shall the report
- 8 include any name, identifying number, or other
- 9 identifying information of any individual involved in
- 10 an incident of alleged bullying or harassment that
- 11 will identify the affected parties.

12 SECTION 3. Act 214, Session Laws of Hawaii 2011, is
 13 repealed.

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 1013

Report Title:

Public Schools; Bullying; Cyberbullying; Action Plan

Description:

Requires the Department of Education to establish a Bullying Prevention and Response Action Plan. Requires the Board of Education or Department of Education to submit an annual report to the Legislature on the Action Plan and reported incidents of alleged bullying and harassment.

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

