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# A BILL FOR AN ACT

RELATING TO BULLYING.

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

1 PART I

2 SECTION 1. The legislature finds that all students have  
3 the right to fully participate in the educational process free  
4 from bullying and cyberbullying. A safe and civil environment  
5 in school is necessary for students to learn and to meet high  
6 academic standards. Bullying and cyberbullying, like other  
7 disruptive or violent behaviors, inhibit a student's ability to  
8 learn and a school's ability to educate students in a safe  
9 environment. It is imperative that all schools and youth-  
10 serving agencies in the State establish and maintain clear and  
11 consistent policies and procedures to address such behavior. In  
12 addition, because students learn by example, school  
13 administrators, faculty, staff, parents, guardians, and  
14 volunteers should be expected to demonstrate appropriate  
15 behavior, treat others with civility and respect, and refuse to  
16 tolerate bullying and harassment.





1 restorative school practices to repair the harm done to  
2 relationships and persons from the student's misbehavior.

3 "Alternative discipline" includes, but is not limited to:

- 4 (1) Meeting with the student and the student's parents;
- 5 (2) Reflective activities, such as requiring the student  
6 to write an essay about the student's misbehavior;
- 7 (3) Counseling;
- 8 (4) Anger management classes;
- 9 (5) Health counseling or intervention;
- 10 (6) Mental health counseling;
- 11 (7) Participation in skills building and resolution  
12 activities, such as social-emotional cognitive skills  
13 building, resolution circles, and restorative  
14 conferencing;
- 15 (8) Community service; and
- 16 (9) In-school detention or suspension, which may take  
17 place during lunchtime, after school, or on weekends.

18 "Bullying" means any severe, pervasive, or persistent act  
19 or conduct, whether physical, electronic, or verbal, that:

- 20 (1) May be based on a youth's actual or perceived race;  
21 sex, including gender identity or expression; sexual



1 orientation; color; religion; ancestry; or disability;  
2 or any other distinguishing characteristic; or on a  
3 youth's association with a person, or group with any  
4 person, who has one or more of the actual or perceived  
5 foregoing characteristics; and

6 (2) Can be reasonably predicted to:

7 (A) Place the youth in reasonable fear of physical  
8 harm to his or her person or property;

9 (B) Cause a substantially detrimental effect on the  
10 youth's physical or mental health;

11 (C) Substantially interfere with the youth's academic  
12 performance or attendance; or

13 (D) Substantially interfere with the youth's ability  
14 to participate in, or benefit from, the services,  
15 activities, or privileges provided by an agency  
16 or grantee.

17 "Disability" means the state of having a physical or mental  
18 impairment that substantially limits one or more major life  
19 activities, having a record of such an impairment, or being  
20 regarded as having such an impairment. "Disability" does not



1 include alcohol or drug use that impairs a person's activities  
2 or threatens the property or safety of others.

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

7 "Employee" means an individual who performs a function for  
8 an agency or grantee and receives compensation for the  
9 performance of that function.

10 "Gender identity or expression" includes a person's actual  
11 or perceived gender, as well as a person's gender identity,  
12 gender-related self-image, gender-related appearance, or gender-  
13 related expression, regardless of whether that gender identity,  
14 gender-related self-image, gender-related appearance, or gender-  
15 related expression is different from that traditionally  
16 associated with the person's sex at birth.

17 "Grantee" means an entity or contractor of an entity that,  
18 on behalf of the State or a county, or through the use of State  
19 or county funds, provides services, activities, or privileges to  
20 youth.



1 "Party" means a person accused of bullying, a target of  
2 bullying, or a parent or guardian of either a person accused of  
3 bullying or a target of bullying.

4 "Sexual orientation" means having a preference for  
5 heterosexuality, homosexuality, or bisexuality, having a history  
6 of any one or more of these preferences, or being identified  
7 with any one or more of these preferences. "Sexual orientation"  
8 shall not be construed to protect conduct otherwise proscribed  
9 by law.

10 "Youth" means an individual who is enrolled in a public  
11 school or who accesses the services or programs provided by an  
12 agency or grantee or an individual who is receiving special  
13 education services from a public school.

14 **§ -2 Bullying prevention policy.** (a) Each agency and  
15 grantee shall adopt a bullying prevention policy to be enforced:

- 16 (1) On its property;
- 17 (2) At sponsored functions;
- 18 (3) On its transportation or transportation it sponsors;
- 19 and
- 20 (4) Through electronic communication to the extent that it
- 21 is directed at a youth and it substantially interferes



1 with the youth's ability to participate in or benefit  
2 from the services, activities, or privileges provided  
3 by the agency or grantee.

4 (b) Each agency and grantee policy shall include at a  
5 minimum:

6 (1) The definition of bullying as set forth in section  
7 -1;

8 (2) A statement prohibiting bullying;

9 (3) A statement that prohibits retaliation against any  
10 person who reports or witnesses incidents of bullying;

11 (4) A statement that the policy applies to participation  
12 in functions sponsored by the agency or grantee;

13 (5) An expected code of conduct;

14 (6) A list of the consequences, including alternative  
15 discipline approaches, that can result from an  
16 identified incident of bullying, which are designed  
17 to:

18 (A) Appropriately correct the bullying behavior;

19 (B) Prevent another occurrence of bullying or  
20 retaliation;

21 (C) Protect the target of the bullying; and



- 1 (D) Be flexible so that they can be applied to each  
2 incident individually and varied in method and  
3 severity based on the nature of the incident,  
4 developmental age of the person bullying, and any  
5 history of problem behavior from the person  
6 bullying;
- 7 (7) A procedure for reporting bullying or retaliation for  
8 reporting an act of bullying, including for reporting  
9 bullying anonymously; provided that no formal response  
10 shall be taken solely on the basis of an anonymous  
11 report;
- 12 (8) A procedure for prompt investigation of reports of  
13 violations of its policy and of complaints of bullying  
14 or retaliation, including the name and contact  
15 information of the person responsible for  
16 investigating reports;
- 17 (9) A procedure for prompt notification of the parent or  
18 guardian of the student alleged to have committed an  
19 act of bullying and the parent or guardian of the  
20 student targeted by the alleged act; provided that if  
21 an administrator or director of the agency or grantee



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

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

8 **§ -3 Bullying prevention programs.** Following the  
9 adoption of a bullying prevention policy, each agency and  
10 grantee shall:

11 (1) Establish an annual bullying prevention program for  
12 youth, which shall align with established health  
13 education standards;

14 (2) Inform youth in age appropriate language about their  
15 right to be free from bullying and discrimination in  
16 public accommodations and education and of the  
17 remedies available for a violation of their rights  
18 under chapter 489 and this chapter; and

19 (3) Provide annual training on bullying prevention to all  
20 employees and volunteers who have significant contact  
21 with youth.



1           **§ -4 Retaliation, reporting, and immunity.** (a) An  
2 employee, volunteer, or youth shall not retaliate against a  
3 victim or witness of bullying or a person who reports bullying.

4           (b) An employee or volunteer who has witnessed bullying in  
5 violation of a bullying prevention policy, or has reliable  
6 information that a person has been subject to bullying in  
7 violation of a bullying prevention policy, shall promptly report  
8 the incident or information to the person designated by the  
9 agency or grantee as responsible for investigating the reports.

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

15           **§ -5 Reporting.** (a) Each agency and grantee shall  
16 provide to the governor, by a date determined by the governor,  
17 an annual report including the aggregate incidents of bullying  
18 and any other information the governor determines is necessary  
19 or appropriate.

20          (b) The governor shall:



- 1 (1) By September 1, 2016, and biennially thereafter,  
2 review the programs, activities, services, and  
3 policies of each agency or grantee to determine their  
4 effectiveness and shall determine whether the agency  
5 or grantee is in compliance with this chapter; and  
6 (2) Report findings to the legislature by December 31 of  
7 each year that a report is due, along with an  
8 assessment of the current level and nature of bullying  
9 in agencies, educational institutions, and grantees;  
10 an evaluation of the sufficiency of funding for  
11 bullying prevention programs; and any recommendations  
12 for legislative, policy, or programmatic changes to  
13 better address bullying in the State."

14 SECTION 3. (a) There is established a bullying prevention  
15 task force within the department of education for administrative  
16 purposes only.

17 (b) The task force shall consist of eleven members, to be  
18 appointed by the governor, and shall include community  
19 representatives and representatives from the agencies and  
20 grantees that will be affected by this Act, including teachers,  
21 administrators, school mental health professionals, parents and



1 legal guardians, direct service providers, clergy, advocates,  
2 the judiciary, law enforcement, and youth. In constituting the  
3 task force, the governor shall ensure that the membership is  
4 geographically and socioeconomically diverse.

5 (c) The task force shall:

- 6 (1) Provide guidance to the governor regarding the  
7 implementation of this Act;
- 8 (2) Publicize a model policy containing each component  
9 required by chapter within one hundred and eighty  
10 days of the effective date of this Act;
- 11 (3) Assist agencies and grantees in developing policies in  
12 accordance with chapter ;
- 13 (4) Compile and make available to each agency and grantee  
14 a list of free or low-cost methods for establishing  
15 the bullying prevention programs required under  
16 chapter ;
- 17 (5) Review for compliance the bullying prevention policies  
18 of each agency and grantee within ninety days of their  
19 receipt;



1 (6) Create resources and hold events to help inform  
2 employees, parents, and youth about the requirements  
3 of this Act; and

4 (7) Create guidelines to assist the governor in evaluating  
5 the effectiveness of established bullying prevention  
6 policies.

7 (d) Members of the task force shall serve without  
8 compensation; however, the department of education shall provide  
9 the task force with the resources and staff support necessary  
10 for the accomplishment of their duties.

11 (e) The task force shall be dissolved two years after its  
12 initial meeting; provided that the governor, in the governor's  
13 discretion, may grant a one-year extension.

14 SECTION 4. Each agency and grantee subject to chapter  
15 shall, in coordination with the bullying prevention task force  
16 established by section 3 of this Act, adopt the bullying  
17 prevention policy required by the new chapter established by  
18 section 2 of this Act within one year of the effective date of  
19 this Act, and shall submit such policy to the task force for  
20 review.



1 PART III

2 SECTION 5. Section 302D-34, Hawaii Revised Statutes, is  
3 amended by amending subsection (a) to read as follows:

4 "(a) A public charter school shall not discriminate  
5 against any student or limit admission based on race, color,  
6 ethnicity, national origin, religion, [~~gender,~~] sex, including  
7 gender identity or expression, sexual orientation, income level,  
8 disability, level of proficiency in the English language, need  
9 for special education services, or academic or athletic  
10 ability."

11 PART IV

12 SECTION 6. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ or so much  
14 thereof as may be necessary for fiscal year 2015-2016 and the  
15 same sum or so much thereof as may be necessary for fiscal year  
16 2016-2017 for resources and staff support necessary for the  
17 accomplishment of the duties of the bullying prevention task  
18 force established by section 3 of this Act.

19 The sums appropriated shall be expended by the department  
20 of education for the purposes of this Act.



## 1 PART V

2 SECTION 7. This Act does not affect rights and duties that  
3 matured, penalties that were incurred, and proceedings that were  
4 begun before its effective date.

5 SECTION 8. If any provision of this Act, or the  
6 application thereof to any person or circumstance, is held  
7 invalid, the invalidity does not affect other provisions or  
8 applications of the Act that can be given effect without the  
9 invalid provision or application, and to this end the provisions  
10 of this Act are severable.

11 SECTION 9. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 10. This Act shall take effect upon its approval;  
14 provided that section 6 shall take effect on July 1, 2015.



**Report Title:**

Bullying; Child Safety

**Description:**

Requires state and county agencies and grantees that serve youth to adopt bullying prevention policies. Establishes a task force to assist the Governor with bullying prevention policies in the State. Appropriates funds. (HB819 HD2)

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

