
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 relationships and persons from the student's misbehavior.

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

3 (1) Meeting with the student and the student's parents;

4 (2) Reflective activities, such as requiring the student
5 to write an essay about the student's misbehavior;

6 (3) Counseling;

7 (4) Anger management classes;

8 (5) Health counseling or intervention;

9 (6) Mental health counseling;

10 (7) Participation in skills building and resolution
11 activities, such as social-emotional cognitive skills
12 building, resolution circles, and restorative
13 conferencing;

14 (8) Community service; and

15 (9) In-school detention or suspension, which may take
16 place during lunchtime, after school, or on weekends.

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

19 (1) May be based on a youth's actual or perceived race;
20 sex, including gender identity or expression; sexual
21 orientation; color; religion; ancestry; or disability,



1 or any other distinguishing characteristic, or on a
2 youth's association with a person, or group with any
3 person, with one or more of the actual or perceived
4 foregoing characteristics; and

5 (2) Can be reasonably predicted to:

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

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

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

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

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. "Disability" 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 an agency or grantee and receives compensation for the
7 performance of that function.

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

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

19 "Party" means a person accused of bullying, a target of
20 bullying, or a parent or guardian of either a person accused of
21 bullying or a target of bullying.



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

7 "Youth" means an individual who is enrolled in a public or
8 private school or who accesses the services or programs provided
9 by an agency or grantee or an individual who is receiving
10 special education services from a public or private school.

11 § -2 Bullying prevention policy. (a) Each agency and
12 grantee shall adopt a bullying prevention policy to be enforced:

13 (1) On its property, including electronic communication on
14 or within its property;

15 (2) At sponsored functions;

16 (3) On its transportation or transportation it sponsors;

17 and

18 (4) Through electronic communication to the extent that it
19 is directed at a youth and it substantially interferes
20 with the youth's ability to participate in or benefit



1 from the services, activities, or privileges provided
2 by the agency or grantee.

3 (b) Each agency and grantee shall control the content of
4 its policy; provided that each policy shall include:

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

7 (2) A statement prohibiting bullying;

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

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

12 (5) An expected code of conduct;

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

17 (A) Appropriately correct the bullying behavior;

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

20 (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 about their right to be free from
15 discrimination in public accommodations and education
16 and of the remedies available for a violation of their
17 rights under chapter 489; and
- 18 (3) Provide annual training on bullying prevention to all
19 employees and volunteers who have significant contact
20 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 and youth. In constituting the task force, the governor shall
3 ensure that the membership is geographically and
4 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) No member of the task force shall be made subject to
12 chapter 84, Hawaii Revised Statutes, solely because of that
13 member's participation as a member of the task force.

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

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



1 this Act, and shall submit such policy to the task force for
2 review.

3 PART III

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

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

12 PART IV

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

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



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PART V

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

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

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

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



Report Title:

Bullying; Child Safety

Description:

Requires certain state and county agencies and grantees to adopt bullying prevention policies. Establishes a task force to assist the Governor with bullying prevention policies in the State. Appropriates funds. (HB819 HD1)

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