

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO BULLYING.

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

PART I

SECTION 1. This Act shall be known as the Safe Schools for All Students Act.

SECTION 2. The legislature finds that all students have the right to fully participate in the educational process free from bullying and cyberbullying. A safe and civil environment in school is necessary for students to learn and to meet high academic standards. Bullying and cyberbullying, like other disruptive or violent behaviors, inhibit a student's ability to learn and a school's ability to educate students in a safe environment. It is imperative that all schools and youth-serving agencies in the State establish and maintain clear and consistent policies and procedures to address such behavior. In addition, because students learn by example, school administrators, faculty, staff, parents, guardians, and volunteers should be expected to demonstrate appropriate



1 behavior, treat others with civility and respect, and refuse to  
2 tolerate bullying and harassment.

3 The purpose of this Act, therefore, is to require all  
4 youth-serving agencies, public schools, and public charter  
5 schools that receive state funding to establish, maintain,  
6 monitor, and enforce policies and procedures related to all  
7 forms of bullying and cyberbullying to protect youth in the  
8 State.

9 PART II

10 SECTION 3. The Hawaii Revised Statutes is amended by  
11 adding a new chapter to be appropriately designated and to read  
12 as follows:

13 "CHAPTER

14 BULLYING PREVENTION

15 § -1 Definitions. As used in this chapter, unless the  
16 context clearly indicates otherwise:

17 "Agency" means any state government entity that provides  
18 services, activities, or privileges to youth.

19 "Alternative discipline" means disciplinary action other  
20 than suspension or expulsion from school that is designed to  
21 correct and address the root causes of a student's specific



1 misbehavior while retaining the student in class or school or  
2 restorative school practices to repair the harm done to  
3 relationships and persons from the student's misbehavior.

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

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

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

8 (3) Counseling;

9 (4) Anger management classes;

10 (5) Health counseling or intervention;

11 (6) Mental health counseling;

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

16 (8) Community service; and

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

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



(1) May be based on a youth's actual or perceived race; sex, including gender identity or expression; sexual orientation; color; religion; ancestry; or disability, or any other distinguishing characteristic, or on a youth's association with a person, or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(2) Can be reasonably predicted to:

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

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

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

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

"Disability" means the state of having a physical or mental impairment that substantially limits one or more major life activities, having a record of such an impairment, or being



1 regarded as having such an impairment. "Disability" does not  
2 include alcohol or drug use that impairs a person's activities  
3 or threatens the property or safety of others.

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

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

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

18 "Grantee" means an entity or contractor of an entity that,  
19 on behalf of the State or through the use of State funds,  
20 provides services, activities, or privileges to 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 these preferences. "Sexual orientation"  
8 shall not be construed to protect conduct otherwise proscribed  
9 by law.

10 "Youth" means an individual of seventeen years of age or  
11 less who is enrolled in a public or private school or who  
12 accesses the services or programs provided by an agency or  
13 grantee or an individual of twenty-two years of age or less who  
14 is receiving special education services from a public or private  
15 school.

16 § -2 Bullying prevention policy. (a) Each agency and  
17 grantee shall adopt a bullying prevention policy to be enforced:

18 (1) On its property, including electronic communication on  
19 or within its property;

20 (2) At sponsored functions;



1 (3) On its transportation or transportation it sponsors;  
2 and

3 (4) Through electronic communication to the extent that it  
4 is directed at a youth and it substantially interferes  
5 with the youth's ability to participate in or benefit  
6 from the services, activities, or privileges provided  
7 by the agency or grantee.

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

10 (1) The definition of bullying as set forth in section  
11 -1;

12 (2) A statement prohibiting bullying;

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

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

17 (5) An expected code of conduct;

18 (6) A list of the consequences, including alternative  
19 discipline approaches, that can result from an  
20 identified incident of bullying, which are designed  
21 to:



- 1 (A) Appropriately correct the bullying behavior;
- 2 (B) Prevent another occurrence of bullying or
- 3 retaliation;
- 4 (C) Protect the target of the bullying; and
- 5 (D) Be flexible so that they can be applied to each
- 6 incident individually and varied in method and
- 7 severity based on the nature of the incident,
- 8 developmental age of the person bullying, and any
- 9 history of problem behavior from the person
- 10 bullying;
- 11 (7) A procedure for reporting bullying or retaliation for
- 12 reporting an act of bullying, including for reporting
- 13 bullying anonymously; provided that no formal response
- 14 shall be taken solely on the basis of an anonymous
- 15 report;
- 16 (8) A procedure for prompt investigation of reports of
- 17 violations of its policy and of complaints of bullying
- 18 or retaliation, including the name and contact
- 19 information of the person responsible for
- 20 investigating reports;





(9) A procedure for prompt notification of the parent or guardian of the student alleged to have committed an act of bullying and the parent or guardian of the student targeted by the alleged act; provided that if administrator or director of the agency or grantee believes, in their professional capacity, that contacting the parent or guardian would endanger the health or well-being of a student, the administrator or director may delay such contact as appropriate; and

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

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

(1) Establish an annual bullying prevention program for youth, which for each public school, should align with established health education standards;

(2) Inform youth about their right to be free from discrimination in public accommodations and education and of the remedies available for a violation of their rights under chapter 489; and



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

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

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

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

§ -5 Reporting. (a) Each agency and grantee shall provide to the governor, by a date determined by the governor, an annual report including the aggregate incidents of bullying



1 and any other information the governor determines is necessary  
2 or appropriate.

3 (b) The governor shall:

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

17 SECTION 4. (a) There is established a bullying prevention  
18 task force within the department of education for administrative  
19 purposes only.

20 (b) The task force shall consist of eleven members, to be  
21 appointed by the governor and shall include community



1 representatives and representatives from the agencies and  
2 grantees that will be affected by this Act, including teachers,  
3 administrators, school mental health professionals, parents and  
4 legal guardians, direct service providers, clergy, advocates,  
5 and youth. In constituting the task force, the governor shall  
6 ensure that the membership is geographically and  
7 socioeconomically diverse.

8 (c) The task force shall:

9 (1) Provide guidance to the governor regarding the  
10 implementation of this Act;

11 (2) Publicize a model policy containing each component  
12 required by chapter within one hundred and eighty  
13 days of the effective date of this Act;

14 (3) Assist agencies and grantees in developing policies in  
15 accordance with chapter ;

16 (4) Compile and make available to each agency and grantee  
17 a list of free or low-cost methods for establishing  
18 the bullying prevention programs required under  
19 chapter ;



(5) Review for compliance the bullying prevention policies of each agency and grantee within ninety days of their receipt;

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

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

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

(e) No member of the task force shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the task force.

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

SECTION 5. Each agency and grantee subject to chapter shall, in coordination with the task force established by



1 section 4 of this Act, adopt the bullying prevention policy  
2 required by the new chapter established by section 3 of this Act  
3 within one year of the effective date of this Act, and shall  
4 submit such policy to the task force for review.

5 PART III

6 SECTION 6. Section 302D-34, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

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

14 PART IV

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

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



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

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

5 SECTION 10. This Act shall take effect upon its approval.

6

INTRODUCED BY: Michelle Tidani



**Report Title:**

Bullying; Safe Schools for All Students

**Description:**

Requires certain state entities and grantees to adopt bullying prevention policies. Establishes a task force to assist the Governor with bullying prevention policies in the State.

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

