

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: Submitted testimony for HB819 on Apr 8, 2015 09:55AM
Date: Wednesday, April 08, 2015 10:51:13 AM

HB819

Submitted on: 4/8/2015

Testimony for JDL/WAM on Apr 8, 2015 09:55AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Honowaii Keoni Rodriguez	Individual	Comments Only	No

Comments: The Honorable Representative Taniguchi, Hello My name is Honowaii Rodriguez, I am a Senior At Roosevelt High School in Ms. Kawakami's Participation in Democracy class. I would like to share my comments and concerns with House Bill 819, relating to bullying. I agree that the youth in the state should be able to learn in a safe environment and be able to come to school without the fear of being bullied. Every student has the right to learn and not have any outside forces impact a student's learning. I also agree with this because it is unfair to those who come to school afraid and wishing they weren't there to begin with. We also shouldn't be living in a world where students are teased, picked on, bullied, or worse just because of the way they may act, what skin color, their mental state, ethnicity, race, and a number of other things that kids nowadays may be harassed for.. The reality is that we are all the same, and its sad to see that many people in the world haven't realized it. I'm hoping this bill will at least make some sort of impact in our state and if we can succeed at that, then the bill would have accomplished a small step towards a brighter future. Now with that being said, I do not necessarily disagree with any of the statements on the bill. However I have a few questions. What would happen in a situation where a cyber bully is caught in action? Would he be punished to the same extent as a regular bully? Or how would the school deal with the issue? In the bill there is a section that regards to "Alternative Discipline". How effective is it really? Some changes I would make would possibly be to show examples or situations where certain things are being explained and make it thorough. I would make them because there should be no faults, people shouldn't be able to poke holes through it, and if they do they should struggle to do so. Sincerely, Honowaii Keoni Rodriguez

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Written Only

DAVID Y. IGE
GOVERNOR



KATHRYN S. MATAYOSHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 04/08/2015

Time: 09:55 AM

Location: 211

Committee: Senate Judiciary and Labor
Senate Ways and Means

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 0819, HD2, SD1 RELATING TO BULLYING.

Purpose of Bill: 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. (SD1)

Department's Position:

The Department of Education (Department) supports the intent of HB 819 HD2 SD1. This bill would require all youth-serving agencies that receive state and county funds to adopt bullying prevention policies.

The Department strongly supports efforts to address bullying and believes that the comprehensive applicability of this measure to all state and county youth-serving agencies would best be served by leadership, oversight and enforcement by the Governor and the Lieutenant Governor to ensure timely action, implementation and accountability by all affected agencies. As the largest youth-serving state agency, the Department has met with key stakeholders of this measure to propose language (provided below) for this joint committee's consideration.

Respectfully, should the bill move forward unamended, the Department submits its substantive concerns regarding the noted amendments to Hawaii Revised Statutes. Hawaii Administrative Rules (HAR) Title 8 Chapter 19 governs acts of bullying in the Department. Currently, the bill's proposed language for many definitions, processes and procedures are inconsistent with Chapter 19.

When a student's behavior violates established policies, rules, or regulations of the Department, state or local laws, the Department may take appropriate disciplinary action in accordance with HAR Title 8 Chapter 19, *Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism.*

Further, HB 819 HD2 SD1 necessitates the Department to take financial considerations into account. Thus, the Department estimates a budget of \$100,000 per year to adequately staff and provide resources for the bullying prevention task force including but not limited to administrative, operational, clerical, and logistical support. We request that HB 819 HD2 SD1 not replace or adversely impact priorities indicated in our Executive Budget.

Thank you for the opportunity to submit testimony on this bill.

RELATING TO BULLYING.

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

PART I

SECTION 1. The legislature finds that all youth in Hawaii have the right to be free from bullying and cyberbullying. It is imperative that youth-serving agencies in the State establish and maintain clear and consistent policies and procedures to address such behavior.

The purpose of this Act, therefore, is to require all youth-serving agencies that receive state or county funding to adopt, maintain, monitor, and enforce policies and procedures related to all forms of bullying and cyberbullying to protect youth in the State. This Act is not intended to apply to private schools, except to the extent they receive state funding.

PART II

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
BULLYING PREVENTION**

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

"Agency" means any state or county government entity that provides services, activities, or privileges to youth, including private schools that receive state funding.

"Alternative discipline" means disciplinary action other than suspension or expulsion that is designed to correct and address the root causes of a youth's specific misbehavior while retaining the youth in class or school, or restorative practices to repair the harm done to relationships and persons from the youth's misbehavior. "Alternative discipline" includes, but is not limited to:

- (1) Meeting with the youth and the youth's parents or

guardians;

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

(3) Counseling;

(4) Anger management classes;

(5) Health counseling or intervention;

(6) Mental health counseling;

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

(8) Community service; and

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

"Bullying" means any severe, pervasive, or persistent act 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, who has 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 regarded as having such an impairment. "Disability" does not

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

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

"Employee" means an individual who performs a function for an agency and receives compensation for the performance of that function.

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

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

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

"Youth" means an individual who is enrolled in a public school, including public charter schools, enrolled in a private school that receives state funding, who accesses the services or programs provided by an agency.

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

- (1) On its property;
- (2) At sponsored functions;
- (3) On its transportation or transportation it sponsors;
and
- (4) In electronic communication that meets the definition of "bullying".

(b) Each agency's policy shall include at a minimum:

- (1) The definition of bullying as set forth in section -1 or as set forth in an agency's existing policies; provided that such definitions shall be as inclusive or more inclusive than the definitions set forth in section -1;

(2) A statement prohibiting bullying;

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

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

(5) An expected code of conduct;

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

(A) Appropriately correct the bullying behavior;

(B) Prevent another occurrence of bullying or retaliation;

(C) Protect the target of the bullying; and

(D) Be flexible so that they can be applied to each incident individually and varied in method and severity based on the nature of the incident, developmental age of the person bullying, and any history of problem behavior from the person bullying;

(7) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided that no formal response shall be taken solely on the basis of an anonymous report;

(8) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation;

(9) A procedure for prompt notification to the parent or guardian of the youth alleged to have committed an act of bullying and the parent or guardian of the youth targeted by the alleged act; provided that if a head or of the agency or the head's designee believes, in the head or head's designee's professional capacity, that contacting the parent or guardian would endanger the health or well-being of a youth, the head or head's designee 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 shall:

(1) Establish an annual bullying prevention program for youth, which shall align with United States Department of Education best practices for bullying prevention or other equivalent national standards;

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

(3) Provide 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 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 shall provide to the governor, by a date determined by the governor, an annual report including the aggregate incidents of bullying.

(b) The governor shall:

(1) By September 1, 2017, and biennially thereafter, review the programs, activities, services, and policies of each agency or grantee to determine their effectiveness and determine whether the agency is in compliance with this chapter; and

(2) Report findings to the legislature by December 31 of each year that a review is conducted, along with an assessment of the current level and nature of bullying in the agencies; an evaluation of the sufficiency of funding for bullying prevention programs; and any recommendations for legislative, policy, or programmatic changes to better address bullying in the State.

SECTION 3. (a) The lieutenant governor shall oversee the implementation of this Act for two years from the effective date of this Act; provided that the lieutenant governor, in the

lieutenant governor's discretion, may extend oversight for a one-year period. Implementation oversight shall include:

(1) Providing guidance to the governor regarding the implementation of this Act;

(2) Developing and publicizing, within one hundred eight days of the effective date of this Act, a model policy containing each component required by chapter ;

(3) Compiling and making available to each agency a list of free or low-cost methods for establishing the bullying prevention programs required under chapter ;

(4) Making available existing resources to help inform employees, parents, and youth about the requirements of this Act; and

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

SECTION 4. Each agency subject to chapter shall adopt the bullying prevention policy required by chapter and submit it to the lieutenant governor for review within one year of the effective date of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the same sum or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes of this Act.

The sums appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act."

PART III

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

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

PART IV

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.

Report Title:

Bullying; Youth Safety

Description:

Requires state and county agencies that serve youth to adopt bullying prevention policies.

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