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# A BILL FOR AN ACT

RELATING TO BULLYING.

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

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

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





1 "Alternative discipline" means disciplinary action other  
2 than suspension or expulsion from school that is designed to  
3 correct and address the root causes of a student's specific  
4 misbehavior while retaining the student in class or school, or  
5 restorative school practices to repair the harm done to  
6 relationships and persons from the student's misbehavior.

7 Alternative discipline includes:

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



1 "Bullying" means any severe, pervasive, or persistent act  
2 or conduct, whether physical; electronic, including any form of  
3 cyberbullying; or verbal that:

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

11 (2) Can be reasonably predicted to:

12 (A) Place the youth in reasonable fear of physical  
13 harm to the youth's person or property;

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

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

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



1 "Disability" has the same meaning as provided in chapter  
2 489.

3 "Educational institution" means any local education agency  
4 that receives funds from the State, including public charter  
5 schools.

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

10 "Employee" means an individual who performs a function for  
11 the State or for an agency, educational institution, or grantee  
12 and who receives compensation for the performance of that  
13 function.

14 "Gender identity or expression" has the same meaning as  
15 provided in chapter 489.

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

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



1 "Place of public accommodation" has the same meaning as  
2 provided in chapter 489.

3 "Sexual orientation" has the same meaning as provided in  
4 chapter 489.

5 "Youth", depending on the context, means:

- 6 (1) An individual of twenty-one years of age or less who  
7 is enrolled in an educational institution or who  
8 accesses the services or programs provided by an  
9 agency or grantee, or an individual of twenty-two  
10 years of age or less who is receiving special  
11 education services from an educational institution; or  
12 (2) Individuals as described in paragraph (1) of this  
13 definition considered as a group.

14 **§ -2 Bullying prevention policy.** (a) Within three-  
15 hundred sixty-five days of the effective date of this chapter,  
16 in coordination with the task force established pursuant to  
17 section 6 of Act , Session Laws of Hawaii 2017, each agency,  
18 educational institution, and grantee shall adopt a bullying  
19 prevention policy to be enforced:

- 20 (1) On its property, including electronic communication on  
21 or within its property;



- 1           (2) At functions sponsored by the agency, educational
- 2                   institution, or grantee; and
- 3           (3) On vehicles owned or sponsored by the agency,
- 4                   educational institution, or grantee.

5           (b) Each agency, educational institution, and grantee  
6 shall control the content of its policy; provided that each  
7 policy shall include:

- 8           (1) The definition of bullying set forth in section     -1;
- 9           (2) A statement prohibiting bullying;
- 10          (3) A statement that the policy applies to participation
- 11                   in functions sponsored by the agency, educational
- 12                   institution, or grantee;
- 13          (4) A code of conduct;
- 14          (5) A list of the consequences, including alternative
- 15                   discipline approaches, that may result from an
- 16                   identified incident of bullying, and are designed to:
- 17                   (A) Appropriately correct the bullying behavior;
- 18                   (B) Prevent another occurrence of bullying or
- 19                   retaliation;
- 20                   (C) Protect the victim of the bullying; and



- 1 (D) Be flexible so that they can be uniquely applied  
2 to the individual incident and varied in method  
3 and severity based on the:
- 4 (i) Nature of the incident;
  - 5 (ii) Developmental age of the person who  
6 committed the bullying; and
  - 7 (iii) Complete history of problem behavior from  
8 the person who committed the bullying;
- 9 (6) A procedure for reporting bullying or retaliation for  
10 reporting an act of bullying, including a procedure  
11 for anonymous reports of bullying; provided that no  
12 formal response shall be taken solely on the basis of  
13 an anonymous report;
- 14 (7) A procedure for prompt investigation of reports of  
15 violations of its policy and of complaints of bullying  
16 or retaliation, including the name and contact  
17 information of the person responsible for  
18 investigating reports;
- 19 (8) A procedure of prompt notification of the parents or  
20 guardians of the student alleged to have committed an  
21 act of bullying and the parents or guardians of the



1 student targeted by the alleged act; provided that if  
2 the administrator believes, in the administrator's  
3 professional capacity, that contacting the parent or  
4 guardian would endanger the health or well-being of a  
5 student, the administrator may delay such contact as  
6 appropriate;

7 (9) An appeal process for a party who is not satisfied  
8 with the outcome of the initial investigation; and

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

11 (c) Within three hundred sixty-five days of the effective  
12 date of this chapter, each agency, educational institution, and  
13 grantee shall submit a copy of its adopted policy to the task  
14 force established pursuant to section 6 of Act , Session Laws  
15 of Hawaii 2017.

16 (d) The requirements of this chapter and any policy  
17 adopted pursuant to this chapter shall be deemed to meet any  
18 health and safety standards that are required for educational  
19 institutions, if applicable.



1 (e) Information on the bullying prevention policy shall be  
2 incorporated into each agency, educational institution, and  
3 grantee's new employee training.

4 (f) Each agency, educational institution, and grantee  
5 shall develop a plan for how the policy is to be publicized, and  
6 shall include:

7 (1) Making a developmentally-appropriate version of the  
8 bullying prevention policy available to youth;

9 (2) Posting on its website the policy and a  
10 developmentally-appropriate version of the policy for  
11 youth; and

12 (3) Making available the name and contact information of  
13 the person responsible for investigating reports of  
14 bullying.

15 **§ -3 Secondary investigation; appeal.** (a) A party who  
16 is not satisfied with the outcome of the initial investigation  
17 conducted pursuant to this chapter may request a secondary  
18 investigation by submitting a written appeal to the higher-level  
19 authority in the agency, educational institution, or grantee  
20 designated to hear appeals. A written request for an appeal



1 shall be submitted within thirty days of the conclusion of the  
2 initial investigation.

3 (b) The secondary investigation shall be completed within  
4 thirty days of receipt of the written request for appeal,  
5 unless:

6 (1) Circumstances require additional time to complete a  
7 thorough investigation;

8 (2) The higher-level authority sets forth those  
9 circumstances identified pursuant to paragraph (1) in  
10 writing; and

11 (3) The additional time does not exceed fifteen days.

12 (c) When a written request for an appeal for a secondary  
13 investigation is submitted, the agency, educational institution,  
14 or grantee shall inform the party about their ability to seek  
15 further redress under chapter 489.

16 (d) This section shall not be construed to limit the right  
17 of a person to assert or seek redress for a claim arising under  
18 chapter 489.

19 § -4 Retaliation, reporting, and immunity. (a) An  
20 employee, volunteer, or youth shall not retaliate against a  
21 victim or witness of bullying or a person who reports bullying.



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

8           (c) An employee, volunteer, or youth who promptly and in  
9 good faith reports an incident of, or information on, bullying  
10 in compliance with the policy of the agency, educational  
11 institution, or grantee shall be immune from a cause of action  
12 for damages arising from the making of such report.

13           § -5 **Bullying prevention programs.** Following the  
14 adoption of a bullying prevention policy, each agency,  
15 educational institution, and grantee shall:

16           (1) Establish an annual bullying prevention program for  
17 youth, which for each educational institution, shall  
18 align with established health-education standards;

19           (2) Inform youth about their right to be free from  
20 discrimination in public accommodations and education,



1 and of the remedies available for a violation of their  
2 rights under chapter 489; and

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

6 § -6 Reporting requirements. (a) Each educational  
7 institution shall provide to the governor, by a date determined  
8 by the governor, an annual report regarding the aggregate  
9 incidents of bullying, and any other information that the  
10 governor determines is necessary or appropriate.

11 (b) By September 1, 2018, and biennially thereafter, the  
12 governor shall:

13 (1) Review the programs, activities, services, and  
14 policies established pursuant to this chapter of each  
15 agency, educational institution, or grantee to  
16 determine their effectiveness and whether the agency,  
17 educational institution, or grantee is in compliance  
18 with this chapter; and

19 (2) Report the findings to the legislature by December 31  
20 of each year that a report is due, along with an  
21 assessment of the current level and nature of bullying



1 in agencies, educational institutions, and grantees,  
2 the department of education's evaluation of the  
3 sufficiency of funding for bullying prevention  
4 programs, and any recommendations for legislative,  
5 policy, or programmatic change to better address  
6 bullying in the State."

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

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

16 SECTION 5. Section 489-2, Hawaii Revised Statutes, is  
17 amended by amending the definition of "place of public  
18 accommodation" to read as follows:

19 "'Place of public accommodation" means a business,  
20 accommodation, refreshment, entertainment, recreation,  
21 education, or transportation facility of any kind whose goods,



1 services, facilities, privileges, advantages, or accommodations  
2 are extended, offered, sold, or otherwise made available to the  
3 general public as customers, clients, or visitors. By way of  
4 example, but not of limitation, place of public accommodation  
5 includes facilities of the following types:

- 6 (1) A facility providing services relating to travel or  
7 transportation;
- 8 (2) An inn, hotel, motel, or other establishment that  
9 provides lodging to transient guests;
- 10 (3) A restaurant, cafeteria, lunchroom, lunch counter,  
11 soda fountain, or other facility principally engaged  
12 in selling food for consumption on the premises of a  
13 retail establishment;
- 14 (4) A shopping center or any establishment that sells  
15 goods or services at retail;
- 16 (5) An establishment licensed under chapter 281 doing  
17 business under a class 4, 5, 7, 8, 9, 10, 11, or 12  
18 license, as defined in section 281-31;
- 19 (6) A motion picture theater, other theater, auditorium,  
20 convention center, lecture hall, concert hall, sports



- 1 arena, stadium, or other place of exhibition or  
2 entertainment;
- 3 (7) A barber shop, beauty shop, bathhouse, swimming pool,  
4 gymnasium, reducing or massage salon, or other  
5 establishment conducted to serve the health,  
6 appearance, or physical condition of persons;
- 7 (8) A park, a campsite, or trailer facility, or other  
8 recreation facility;
- 9 (9) A comfort station; or a dispensary, clinic, hospital,  
10 convalescent home, or other institution for the  
11 infirm;
- 12 (10) A professional office of a health care provider, as  
13 defined in section 323D-2, or other similar service  
14 establishment;
- 15 (11) A mortuary or undertaking establishment; [and]
- 16 (12) A school, college, or educational institution; and
- 17 [~~(12)~~] (13) An establishment that is physically located  
18 within the premises of an establishment otherwise  
19 covered by this definition, or within the premises of  
20 which is physically located a covered establishment,



1           and which holds itself out as serving patrons of the  
2           covered establishment.

3           No place of public accommodation defined in this section  
4 shall be requested to reconstruct any facility or part thereof  
5 to comply with this chapter."

6           SECTION 6. (a) Within sixty days of the effective date of  
7 this Act, the governor shall establish a bullying prevention  
8 task force within the governor's office.

9           (b) In convening this task force and selecting its  
10 members, the governor shall consider geographic and  
11 socioeconomic diversity as well as other forms of diversity.  
12 The governor shall appoint eleven representatives from a variety  
13 of educational institutions and agencies that will be affected  
14 by this chapter, as well as community representatives,  
15 including:

- 16           (1) Teachers;
- 17           (2) Administrators from educational institutions and  
18           agencies;
- 19           (3) School mental health professionals;
- 20           (4) Parents and legal guardians;
- 21           (5) Youth;



- 1 (6) Direct service providers;
- 2 (7) Clergy; and
- 3 (8) Youth advocates.
- 4 (c) The task force shall:
  - 5 (1) Provide guidance to the governor regarding the
  - 6 implementation of chapter , Hawaii Revised Statutes;
  - 7 (2) Within one hundred eighty days of the effective date
  - 8 of this Act, publicize a model policy, which shall
  - 9 contain each of the components required by chapter
  - 10 , Hawaii Revised Statutes;
  - 11 (3) Assist educational agencies, institutions, and
  - 12 grantees with developing policies in accordance with
  - 13 chapter , Hawaii Revised Statutes;
  - 14 (4) Compile, and make available to each agency,
  - 15 educational institution, and grantee, a list of free
  - 16 or low-cost methods for establishing the bullying
  - 17 prevention programs authorized by chapter , Hawaii
  - 18 Revised Statutes;
  - 19 (5) Within ninety days of receipt of the bullying
  - 20 prevention policies submitted by agencies, educational
  - 21 institutions, and grantees, review each adopted policy



1 for compliance with the requirements of chapter ,  
2 Hawaii Revised Statutes;

3 (6) Create resources and hold events to help inform  
4 employees, parents, and youth about the requirements  
5 of chapter , Hawaii Revised Statutes; and

6 (7) Promulgate guidelines to assist the governor in  
7 evaluating the effectiveness of the bullying  
8 prevention policies that have been established.

9 (d) The governor shall provide the task force with  
10 resources and staff support to execute the responsibilities of  
11 the task force.

12 (e) Members of the task force shall serve without  
13 compensation but shall be reimbursed for reasonable expenses,  
14 including travel expenses, necessary for the performance of  
15 their duties.

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

19 (g) The task force shall terminate two years after its  
20 initial meeting; provided that at the discretion of the  
21 governor, a one-year extension may be granted.



1 SECTION 7. There is appropriated out of the general  
 2 revenues of the State of Hawaii the sum of \$ or so much  
 3 thereof as may be necessary for fiscal year 2017-2018 and the  
 4 same sum or so much thereof as may be necessary for fiscal year  
 5 2018-2019 for anti-bullying and suicide prevention efforts in  
 6 Hawaii's public schools.

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

9 SECTION 8. This Act does not affect rights and duties that  
 10 matured, penalties that were incurred, and proceedings that were  
 11 begun before its effective date.

12 SECTION 9. The revisor of statutes shall insert the  
 13 effective date of this Act in the appropriate locations in  
 14 section 3 of this Act.

15 SECTION 10. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 11. This Act shall take effect upon its approval;  
 18 provided that section 7 shall take effect on July 1, 2017.

19

INTRODUCED BY: 

JAN 21 2017



# H.B. NO. 806

**Report Title:**

Education; Youth; Students; Youth-serving Agencies; Bullying; Cyberbullying; Educational Institutions; Appropriation

**Description:**

Requires educational institutions and all youth-serving agencies to create and implement anti-bullying policies. Establishes a bullying prevention task force to provide guidance. Outlines the requirements for each institution or agency's policy and specifies reporting, investigation, and appeals procedures involving incidents of bullying. Provides immunity to reporters of bullying in the event of a cause of action for damages arising from the making of a report. Requires institutions and agencies to establish annual bullying prevention programs for youth and to provide bullying prevention training to all employees and volunteers who have significant contact with youth. Requires institutions and agencies to report aggregate figures regarding bullying to the governor and requires the governor to report to the legislature regarding bullying and the effectiveness of anti-bullying policies. Appropriates funds for anti-bullying and suicide prevention efforts in the public schools.

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

