



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

GOV. MSG. NO. 1186

September 15, 2020

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: SB2486 SD1 HD1

Pursuant to Section 16 of Article III of the State Constitution, SB2486 SD1 HD1, entitled "A BILL FOR AN ACT RELATING TO EDUCATION DATA." became law as Act 076 (20), Session Laws of Hawaii 2020, on September 15, 2020.

This measure comes alongside the DOE's current expansion of its data collection and information management projects. Unfortunately, it creates additional requirements without providing resources to help carry them out.

For the foregoing reasons, I allowed SB2486 SD1 HD1 to become law without my signature.

Sincerely,

DAVID Y. IGE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO EDUCATION DATA.

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

- 1 SECTION 1. (a) The legislature finds that:
- 2 (1) Many factors contribute to poor student performance,
- 3 including lost instruction time and chronic absence
- 4 from school;
- 5 (2) A student who has been suspended, even once, is less
- 6 likely to graduate;
- 7 (3) Discipline that keeps students engaged in the learning
- 8 process and with the school community is more
- 9 effective than discipline that interrupts the learning
- 10 process and separates the learning community;
- 11 (4) Although out-of-school and in-school suspensions are
- 12 necessary in some situations, the excessive use of
- 13 suspensions as a discipline measure is harmful to the
- 14 educational process and to academic achievement;
- 15 (5) Disparity in disciplinary rates does not necessarily
- 16 indicate discrimination; it can result from an
- 17 ineffective school climate or from cultural strategies



1 that are not successful in engaging the academic and
2 behavioral efforts of all students;

3 (6) Accurate data collection relating to absenteeism,
4 discipline, and learning allows school system
5 personnel and the board of education to determine
6 interventions as necessary to encourage student
7 success;

8 (7) By calculating rates of disproportionality among
9 indicators of student performance, including
10 discipline and absenteeism, the department can engage
11 in remedial measures to ensure student success
12 regardless of subgroup; and

13 (8) The data collection, analysis, and reporting required
14 by this Act is intended, in part, to preserve
15 protections that may soon be lost if the United States
16 Department of Education acts on its proposal,
17 published on September 19, 2019, in the Federal
18 Register, to cease collecting certain types of data
19 from public schools and public charter schools for the
20 Department's mandatory civil rights data collection.



- 1 (b) Based on the foregoing findings, the purpose of this
2 Act is to require the department of education to:
- 3 (1) Establish a standardized process for accurate data
4 collection;
- 5 (2) Collect data on indicators relating to school climate
6 and student achievement, including data that may cease
7 to be collected under the United States Department of
8 Education's proposed rollback of mandatory civil
9 rights data collection;
- 10 (3) Make public, in a way that is understandable to
11 families and advocates, data relating to school
12 climate and student achievement;
- 13 (4) Coordinate with the state public charter school
14 commission regarding the collection, analysis, and
15 dissemination of this data from public charter
16 schools;
- 17 (5) Analyze this data; and
- 18 (6) Annually report this data to the board of education
19 and legislature.



1 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to subpart B of part IV, to be
3 appropriately designated and to read as follows:

4 "§302A- Accurate data reporting. (a) The department
5 shall establish a standardized data collection process for
6 schools and complex areas to maintain records and report data to
7 the department. The department shall implement a process to:

8 (1) Review the accuracy of data reported by schools and
9 complex areas;

10 (2) Coordinate with the state public charter school
11 commission regarding the collection, analysis, and
12 dissemination of this data from public charter
13 schools; and

14 (3) Analyze and publish the data collected.

15 (b) The department shall annually review all data that has
16 been collected pursuant to state and federal law and certify the
17 accuracy of the data."

18 SECTION 3. Section 302A-1004, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§302A-1004 Educational accountability system; annual
21 reports. (a) The department shall implement a comprehensive



1 system of educational accountability to motivate and support the
2 improved performance of students and the education system. Data
3 shall be reported as required by this section when the number of
4 students in a particular data subgroup is greater than ten and
5 shall be redacted when the number of students in a particular
6 data subgroup is ten or fewer; provided that the personally
7 identifiable information of each student shall be kept private.

8 This accountability system shall:

- 9 (1) Include student accountability; school or collective
10 accountability; individual professional accountability
11 for teachers, principals, and other employees; and
12 public accounting to parents, community members,
13 businesses, higher education, media, and political
14 leadership;
- 15 (2) Link authority and resources to responsibility;
- 16 (3) Define clear roles for all parties and lines of
17 responsibility and mutual obligation and develop a
18 collaborative process with stakeholders, including
19 representatives of appropriate bargaining units,
20 parents, administration, and students;



- 1 (4) Assess and track measures of academic achievement,
2 safety and well-being, and civic responsibility of
3 individual students at selected grade levels, and
4 annually report trend data from the past three years
5 on these measures [~~over time annually~~];
- 6 (5) Invoke a full and balanced set of appropriate
7 consequences for observed performance, including
8 rewards and recognition for those schools that meet or
9 exceed their goals, assistance to those that fall
10 short, and sanctions for those that, given adequate
11 assistance and ample time, continue to fail to meet
12 goals;
- 13 (6) Involve an annual statewide assessment program that
14 provides a report card containing trend data from the
15 past three years on school, school complex, and system
16 performance at selected benchmark grade levels with
17 performance indicators in areas relating to student
18 achievement, safety and well-being, and civic
19 responsibility. These performance indicators shall
20 include but not be limited to:



- 1 (A) Student performance relative to statewide content
2 and performance standards; [~~and~~]
- 3 (B) School attendance and dropout rates; and
- 4 (C) Student discipline, seclusion, and restraint
5 information, in total and by unduplicated counts,
6 disaggregated by subgroups consisting of race,
7 including by Asian subgroup; ethnicity; national
8 origin; gender; sex; English learner status; low-
9 income status; students whose achievement is
10 below grade level for the school year on literacy
11 benchmark assessments, math benchmark
12 assessments, or end-of-course assessments; and
13 disability status based upon an individualized
14 education program or upon section 504 of the
15 Rehabilitation Act of 1973 (29 U.S.C. 794),
16 including but not limited to the following:
- 17 (i) In-school suspensions;
- 18 (ii) Out-of-school suspensions of one day or
19 less; of two to five days; of six to nine
20 days; of ten to twenty days; and of twenty-
21 one or more days;



- 1 (iii) Expulsions;
- 2 (iv) Removals to an alternative education setting
- 3 by school personnel;
- 4 (v) School-related arrests;
- 5 (vi) Referrals to law enforcement authorities;
- 6 (vii) Withdrawals for other reasons;
- 7 (viii) Number of parent or guardian-initiated
- 8 withdrawals under section 302A-1132;
- 9 (ix) Number of school resource officers, either
- 10 full-time or part-time, and the number of
- 11 hours assigned to the school per week; and
- 12 (x) Other data that the board may approve;
- 13 (7) Require that teachers and administrators engage in the
- 14 continuous professional growth and development that
- 15 ensure their currency with respect to disciplinary
- 16 content, leadership skill, knowledge, or pedagogical
- 17 skill, as appropriate to their position. This
- 18 requirement may be established by the department in
- 19 terms of credit hours earned or their equivalent in
- 20 professional development activity certified by the
- 21 department as appropriate in focus and rigor;



- 1 (8) Establish an explicit link between professional
2 evaluation results and individual accountability
3 through professional development of the knowledge,
4 skill, and professional behavior necessary to the
5 position, by requiring that results of the
6 professional evaluation be used by the department to
7 prescribe professional development focus and content,
8 as appropriate;
- 9 (9) Include an annual statewide fiscal accountability
10 program, which includes a published report card that
11 contains trend data on school, school complex, and
12 systemwide plans and results, including:
- 13 (A) Amounts allocated;
- 14 (B) Amounts expended;
- 15 (C) Amounts carried over; and
- 16 (D) Any significant changes to the budget, with an
17 explanation for the change; and
- 18 (10) Include an evaluation of the effectiveness of complex
19 area superintendents and principals in supporting:
- 20 (A) Students' academic achievement, safety and well-
21 being, and civic responsibility; and



1 (B) The satisfaction of stakeholders affected by the
2 work of the complex area superintendents and
3 principals, which may be measured by [~~broaddbased~~]
4 broad-based surveys; and
5 (C) Fiscal accountability.

6 (b) The department shall annually post on the department's
7 website [~~information~~]:

8 (1) Information on the specifics of the implementation of
9 the comprehensive accountability system[~~, as well as~~];

10 (2) Information on the fiscal requirements and legislative
11 actions necessary to maintain and improve the
12 accountability system[~~-~~]; and

13 (3) Data collected pursuant to subsection (a) (6) (C) on
14 student discipline, as follows:

15 (A) The total number of students enrolled in the
16 State by complex, school, and subgroup;

17 (B) The percentage of the school, complex, and
18 State's total enrollment that the subgroup
19 represents;

20 (C) The number of students who appear in more than
21 one subgroup;



- 1 (D) The disciplinary rate for each discipline measure
2 described in subsection (a)(6)(C), based on the
3 total student enrollment in each school and each
4 complex;
- 5 (E) The disciplinary rate for each discipline measure
6 described in subsection (a)(6)(C) with respect to
7 each subgroup; and
- 8 (F) The rate of disciplinary disparity for each
9 discipline measure described in subsection
10 (a)(6)(C), with respect to each subgroup, as
11 compared with the subgroup with the lowest
12 disciplinary rate.
- 13 (c) The department shall also annually post on its website
14 a state-, complex-, and school-level report for each school that
15 details the past three years and includes an analysis of any
16 disproportionality among student subgroups using the performance
17 indicators in subsection (a)(6). Each report shall be uniformly
18 formatted and designed by the department so as to provide
19 school-based users and the public with all pertinent
20 information. Report data shall be downloadable in raw form.



1 Report information [~~that includes but is not limited to the~~
2 ~~following:] shall include:~~

- 3 (1) Results of school-by-school assessments of educational
4 outcomes;
- 5 (2) Summaries of each school's standards implementation
6 design;
- 7 (3) Summary descriptions of the demographic makeup of the
8 schools, with indications of the range of these
9 conditions among schools within Hawaii;
- 10 (4) Comparisons of conditions affecting Hawaii's schools
11 with the conditions of schools in other states;
- 12 (5) Other [~~such~~] assessments [~~as may be~~] deemed
13 appropriate by the board; [~~and~~]
- 14 (6) Student discipline, seclusion, and restraint
15 information by school, as required by this section;
16 and
- 17 [~~(6)~~] (7) Any other reports required by this section.
- 18 (d) The department shall provide electronic access to
19 computer-based financial management, student information, and
20 other information systems to the legislature and the auditor.
21 The department shall submit to the legislature and to the



1 governor, at least twenty days prior to the convening of each
2 regular session, a school-by-school expenditure report that
3 ~~[includes but is not limited to the following:]~~ shall include:

- 4 (1) The financial analysis of expenditures by the
5 department with respect to the following areas:
6 (A) Instruction, including face-to-face teaching, and
7 classroom materials;
8 (B) Instructional support, including pupil, teacher,
9 and program support;
10 (C) Operations, including non-instructional pupil
11 services, facilities, and business services;
12 (D) Other commitments, including contingencies,
13 capital improvement projects, out-of-district
14 obligations, and legal obligations; and
15 (E) Leadership, including school management, program
16 and operations management, and district
17 management; and
18 (2) The measures of accuracy, efficiency, and productivity
19 of the department, districts, and schools in
20 delivering resources to the classroom and the student.



1 (e) The superintendent of education is responsible for the
2 development and implementation of an educational accountability
3 system. The system shall include consequences and shall be
4 designed through a collaborative process involving stakeholders
5 that shall include parents, community members, the respective
6 exclusive representatives, as well as others deemed appropriate
7 by the superintendent.

8 For the purposes of this section, negotiations under
9 chapter 89 shall be between the superintendent or the
10 superintendent's designee and the respective exclusive
11 representative and shall be limited to the impact on personnel
12 arising from the superintendent's decision in implementing the
13 educational accountability system. After the initial agreement
14 is negotiated, provisions on the impact of the accountability on
15 personnel may be reopened only upon mutual agreement of the
16 parties.

17 (f) The department shall:

18 (1) Annually submit a report to the board and to the
19 legislature, as follows:

20 (A) The report shall identify discipline-related
21 strategies, alternatives, and resources available



1 to schools and complexes, and shall include the
2 following:
3 (i) Student discipline, seclusion, and restraint
4 data collected pursuant to subsection
5 (a)(6)(C);
6 (ii) Data collected in accordance with the data
7 elements shown in the United States
8 Department of Education's 2015-2016 civil
9 rights data collection relating to school
10 finance, teacher experience and absenteeism,
11 all early childhood education items,
12 advanced placement test-taking items,
13 references to gender identity in the
14 definition of "harassment on the basis of
15 sex", number of English language learner
16 students enrolled in English language
17 programs by disability status, participation
18 in credit recovery programs, and any civil
19 rights concerns or complaints from children
20 with disabilities placed by school districts
21 in nonpublic schools; and



- 1 (iii) Information regarding staffing and contact
2 information for school- and complex-level
3 equity specialists; and
- 4 (B) The report may include additional information, as
5 determined by the department, that would assist
6 in better understanding the disciplinary rate or
7 rate of disciplinary disparity of a particular
8 school or complex;
- 9 (2) Track the progress made by schools and complexes over
10 the past three years in reducing the disciplinary
11 rates and rate of disciplinary disparity that are
12 referenced in subsection (b)(3)(D) through (F);
- 13 (3) Assess the changes in student academic achievement and
14 absenteeism rates over the past three years that
15 correspond to any reduction in disciplinary rates and
16 rates of disciplinary disparity that are referenced in
17 subsection (b)(3)(D) through (F);
- 18 (4) Track the use of restraints over the past three years;
19 and
- 20 (5) Report annually to the board, and make public on its
21 website, the following:



- 1 (A) Changes in the use of discipline over the past
- 2 three years; and
- 3 (B) Information on the extent to which schools and
- 4 complexes are implementing evidence-based
- 5 strategies, including positive behavior
- 6 interventions, support systems, or restorative
- 7 justice."

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

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


APPROVED this day of , 2020


GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: July 10, 2020
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2020.

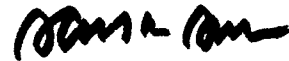

President of the Senate


Clerk of the Senate

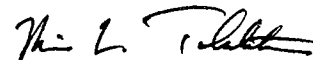
THE HOUSE OF REPRESENTATIVES OF THE
STATE OF HAWAII

Date: July 6, 2020
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives