

JAN 25 2023

A BILL FOR AN ACT

RELATING TO PARENTAL RIGHTS IN EDUCATION.

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

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to be properly designated and to
3 read as follows:
4 "S302A- Student welfare. (a) The board shall adopt
5 procedures for notifying a student's parent if there is a change
6 in the student's services or monitoring related to the student's
7 mental, emotional, or physical health or well-being and the
8 school's ability to provide a safe and supportive learning
9 environment for the student. The procedures shall reinforce the
10 fundamental right of parents to make decisions regarding the
11 upbringing and control of their children by requiring school
12 personnel to encourage a student to discuss issues relating to
13 the student's well-being with the student's parent or to
14 facilitate discussion of the issue with the parent. The
15 procedures shall not prohibit parents from accessing any of
16 their student's education and health records created,
17 maintained, or used by the department.



1 (b) The board shall not adopt procedures or student
2 support forms that prohibit school personnel from notifying a
3 parent about the student's mental, emotional, or physical health
4 or well-being, or a change in related services or monitoring, or
5 that encourage or have the effect of encouraging a student to
6 withhold from a parent such information. School personnel shall
7 not discourage or prohibit parental notification of and
8 involvement in critical decisions affecting a student's mental,
9 emotional, or physical health or well-being. This subsection
10 does not prohibit the department from adopting procedures that
11 permit school personnel to withhold information from a parent if
12 a reasonably prudent person would believe that disclosure would
13 result in abuse, abandonment, or neglect.

14 (c) Classroom instruction by school personnel or third
15 parties on sexual orientation or gender identity shall not occur
16 in kindergarten through grade three or in a manner that is not
17 age appropriate or developmentally appropriate for students in
18 accordance with state standards.

19 (d) Student support services training developed or
20 provided by the department to school personnel shall adhere to



1 student services guidelines, standards, and frameworks
2 established by the department.

3 (e) At the beginning of the school year, the department
4 shall notify parents of each healthcare service offered at their
5 student's school and the option to withhold consent or decline
6 any specific service. Parental consent to a health care service
7 does not waive the parent's right to access the student's
8 educational or health records or to be notified about a change
9 in the student's services or monitoring as provided by this
10 subsection.

11 (f) Before administering a student well-being
12 questionnaire or health screening form to a student in
13 kindergarten through grade three, the department shall provide
14 the questionnaire or health screening form to the parent and
15 obtain the permission of the parent.

16 (g) The board shall adopt procedures for a parent to
17 notify the principal, or the principal's designee, regarding
18 concerns under this section at the student's school and the
19 process for resolving those concerns within seven calendar days
20 after notification by the parent. The procedures shall require
21 that within thirty days after notification by the parent that



1 the concern remains unresolved, the department shall either
2 resolve the concern or provide a statement of the reasons for
3 not resolving the concern:

4 (1) If a concern is not resolved by the department, a
5 parent may:

6 (A) Request the superintendent to appoint a special
7 master who is an attorney licensed to practice in
8 the State and who has at least five years'
9 experience in administrative law. The special
10 master shall determine facts relating to the
11 dispute over the departmental procedure or
12 practice, consider information provided by the
13 department and render a recommended decision for
14 resolution to the board within thirty days after
15 receipt of the request by the parent. The board
16 shall approve or reject the recommended decision
17 at its next regularly scheduled meeting that is
18 more than seven calendar days and no more than
19 thirty days after the date the recommended
20 decision is transmitted. The costs of the
21 special master shall be borne by the department.



- 1 The board shall adopt rules, including forms,
2 necessary to implement this subparagraph; or
3 (B) Bring an action against the department to obtain
4 a declaratory judgment that the department
5 procedure or practice violates this subsection
6 and seek injunctive relief. A court may award
7 damages and shall award reasonable attorney fees
8 and court costs to a parent who receives
9 declaratory or injunctive relief;
- 10 (2) The board shall adopt policies to notify parents of
11 the procedures required under this subsection; and
- 12 (3) Nothing contained in this subsection shall be
13 construed to abridge or alter rights of action or
14 remedies in equity already existing under the common
15 or general law."

16 SECTION 2. By June 30, 2024, the department of education
17 shall review and update, as necessary, school counseling
18 frameworks and standards; educator practices and professional
19 conduct principles; and any other student services personnel
20 guidelines, standards, or frameworks in accordance with the
21 requirements of this Act.



S.B. NO. 1428

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on July 1, 2023.

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INTRODUCED BY:

A handwritten signature in black ink, consisting of a large, stylized 'B' followed by a smaller, less distinct mark, possibly a first initial. The signature is written above a horizontal line.

S.B. NO. 1428

Report Title:

Parental Rights in Education

Description:

Bans instruction related to sexual orientation and gender identity in public schools. Establishes new parental rights regarding health services and records. Establishes the parental right to sue and receive damages if schools fail to adhere to new provisions.

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

