
A BILL FOR AN ACT

RELATING TO THE HARM TO STUDENTS REGISTRY.

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

1 SECTION 1. The legislature finds that pursuant to Act 156,
2 Session Laws of Hawaii 2024, the department of education is
3 required to establish a harm to students registry. The
4 legislature further finds that clarifying the scope of the
5 registry by including contractors and volunteers only if their
6 roles involve interaction with students, and by excluding K-12
7 students, will reduce unnecessary complexity and administrative
8 burdens while maintaining a safe learning environment for
9 students.

10 Therefore, the purpose of this Act is to clarify which
11 individuals are covered under the harm to students registry to
12 ensure both efficiency and student safety.

13 SECTION 2. Section 302A-1006, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**[+]§302A-1006[+]** **Harm to students registry; requirements;**
16 **due process; immunity.** (a) The department shall establish a
17 harm to students registry, which shall be a database of



1 employees found to have inflicted harm on a student in the
2 State. The harm to students registry shall contain:

- 3 (1) The employee's full legal name and any prior names
4 used, such as maiden name or married name;
- 5 (2) The employee's date of birth;
- 6 (3) The employee's photograph;
- 7 (4) The employee's last known address; and
- 8 (5) The name of the reporting institution.

9 (b) The reporting institution shall certify to the
10 department that any employee whose name and information has been
11 transmitted to the department for inclusion on the harm to
12 students registry has been afforded appropriate due process, as
13 set forth in this section.

14 (c) The reporting institution shall certify that there has
15 been a final finding, including the date of the institution's
16 final finding, resulting from the institution's investigation
17 into whether the institution's employee engaged in acts or
18 omissions that resulted in the infliction of harm to a student,
19 notwithstanding whether the employee was terminated, retired,
20 resigned, or was banned from the school pending completion of
21 the investigation. Each institution shall complete an



1 investigation without regard to the employment status of the
2 employee under investigation or the status of the employee's
3 future involvement with the institution.

4 (d) For the purposes of this section, in order for an
5 employee's name to be placed on the harm to students registry,
6 the investigation conducted by the reporting institution that
7 rendered a final finding of infliction of harm to a student
8 shall involve, at a minimum:

- 9 (1) An investigator who was not a party or witness to the
10 incident under investigation and who does not report
11 to a complaining party or accused party;
- 12 (2) An opportunity for the complaining party and accused
13 party to provide information to the investigator
14 regarding the alleged misconduct or other
15 circumstances that caused initiation of the
16 investigation;
- 17 (3) Representation for the accused party if required by
18 law or any applicable collective bargaining agreement;
19 provided that the department shall not provide
20 representation for an accused party that is not



1 entitled to representation pursuant to a collective
2 bargaining agreement;

3 (4) Consideration of the information provided by all
4 parties and witnesses who participated in the
5 investigation; and

6 (5) Reasoned findings based on the information gathered
7 that support the conclusion, by a preponderance of the
8 evidence, that the accused party inflicted harm on a
9 student.

10 (e) The reporting institution shall certify, before
11 transmitting the employee's name and other information to the
12 department, that:

13 (1) The employee whose name is transmitted to the
14 department for inclusion on the harm to students
15 registry was given prior written notice of the
16 institution's decision to transmit the employee's name
17 for this purpose;

18 (2) The employee was given the opportunity to appeal the
19 decision; and

20 (3) The employee either waived the right to appeal or lost
21 the appeal.



1 The department shall rely on an institution's certification
2 that the employee was provided due process in accordance with
3 this section.

4 (f) Each institution in the State, when requested by
5 another institution, shall share with that institution the
6 existence of any employee investigation that includes
7 allegations of infliction of harm to a student, including
8 ongoing investigations.

9 (g) An institution that provides information or an opinion
10 about an employee's job performance to a prospective employing
11 institution shall be presumed to be acting in good faith and
12 shall have qualified immunity from civil or criminal liability
13 for disclosing the information and for the consequences of the
14 disclosure.

15 (h) The good faith presumption under subsection (g) shall
16 be rebuttable upon a showing, by a preponderance of the
17 evidence, that the information or opinion disclosed was:

- 18 (1) Knowingly false; or
19 (2) Knowingly misleading.



1 (i) Nothing in subsections (g) and (h) shall affect the
2 rights, obligations, remedies, liabilities, or standards of
3 proof under chapters 89, 92F, 368, and 378.

4 (j) The harm to students registry shall be made accessible
5 to all institutions within the State.

6 (k) A person whose name is listed on the harm to students
7 registry may request the reporting institution to submit a
8 certified request to the department to remove the person's name
9 from the registry if new information is discovered that proves
10 that the person has not inflicted harm on a student such that
11 the person's name does not belong on the registry. The
12 department shall remove the person's name from the harm to
13 students registry upon receiving a certified request from the
14 reporting institution to remove the person's name from the
15 registry.

16 (l) Any institution certifying the inclusion of an
17 employee on or removal of an employee from the harm to students
18 registry, or refusing to certify the removal of an employee from
19 the harm to students registry, shall defend and indemnify the
20 department from any liability resulting from any claim or cause
21 of action relating to the employee's inclusion on or removal



1 from the registry, or relating to the institution's refusal to
2 certify the removal of the employee from the registry.

3 (m) As part of the procedures followed pursuant to section
4 302A-601.5, the department shall consult the harm to students
5 registry to determine whether a candidate for employment is
6 listed on the registry.

7 (n) The department shall consult the harm to students
8 registry before authorizing a volunteer's assistance in a role
9 that involves the volunteer's interaction with, or close
10 proximity to, a student or students.

11 (o) If a candidate for employment or a potential
12 volunteer's name is listed on the harm to students registry, the
13 department shall cease to consider the candidate for employment
14 or shall prohibit the volunteer's assistance in a role that
15 involves interaction with, or close proximity to, a student or
16 students.

17 (p) The harm to students registry shall be exempt from
18 disclosure under chapter 92F.

19 (q) An individual enrolled as a student at an institution
20 at the time of employment shall be exempt from this section.

21 [~~q~~] (r) As used in this section:



1 "Employee" means a person currently or formerly employed by
2 [the] an institution and includes [~~contractors and volunteers~~]
3 any contractor or volunteer for [~~an~~] the institution[~~-~~] who
4 performs any role that involves interaction with a student.

5 "Final finding" means the conclusion of an institution's
6 investigation that results in a determination by the
7 institution.

8 "Harm to students registry" or "registry" means a database
9 of employees and any related documents compiled by the
10 department that a reporting institution certifies and transmits
11 to the department.

12 "Inflicted harm on a student" or "infliction of harm on a
13 student" means the act of subjecting a student to abusive acts
14 or sexual exploitation, whether with, to, or in the presence of
15 a student, including any:

- 16 (1) Sexual act;
- 17 (2) Solicitation of a sexual act, whether written, visual,
18 verbal, or physical;
- 19 (3) Inappropriate sexual contact or conduct, whether
20 written, visual, verbal, or physical;
- 21 (4) Act of child abuse;



1 (5) Intentional solicitation, encouragement, or
2 consummation of a romantic or physical relationship,
3 which includes dating a student; or

4 (6) Acts of abuse or violence, including assault, torture,
5 or physical punishment or restraint that results in
6 serious bodily injury.

7 "Institution" means any public or private educational
8 institution that services students in early learning programs or
9 schools, and from kindergarten through twelfth grade within the
10 State.

11 "Investigation" means any fact finding by an institution
12 relating to an accusation of infliction of harm on a student
13 that meets the requirements of subsection (d)."

14 SECTION 3. Section 302C-2, Hawaii Revised Statutes, is
15 amended by amending subsection (1) to read as follows:

16 "(1) As used in this section:

17 "Department" means the department of education.

18 "Employee" has the same meaning as defined in section
19 [~~302A-1006(q)~~] 302A-1006(r).

20 "Final finding" has the same meaning as defined in section
21 [~~302A-1006(q)~~] 302A-1006(r).



1 "Harm to students registry" or "registry" has the same
2 meaning as defined in section [~~302A-1006(q).~~] 302A-1006(r).

3 "Inflicted harm on a student" or "infliction of harm on a
4 student" has the same meaning as defined in section [~~302A-~~
5 ~~1006(q).~~] 302A-1006(r).

6 "Institution" has the same meaning as defined in section
7 [~~302A-1006(q).~~] 302A-1006(r).

8 "Investigation" has the same meaning as defined in section
9 [~~302A-1006(q).~~] 302A-1006(r)."

10 SECTION 4. Section 302D-33.5, Hawaii Revised Statutes, is
11 amended by amending subsection (1) to read as follows:

12 "(1) As used in this section:

13 "Department" means department of education.

14 "Employee" has the same meaning as defined in section
15 [~~302A-1006(q).~~] 302A-1006(r).

16 "Final finding" has the same meaning as defined in section
17 [~~302A-1006(q).~~] 302A-1006(r).

18 "Harm to students registry" or "registry" has the same
19 meaning as defined in section [~~302A-1006(q).~~] 302A-1006(r).



1 "Inflicted harm on a student" or "infliction of harm on a
2 student" has the same meaning as defined in section [~~302A-~~
3 ~~1006(q).~~] 302A-1006(r).

4 "Institution" has the same meaning as defined in section
5 [~~302A-1006(q).~~] 302A-1006(r).

6 "Investigation" has the same meaning as defined in section
7 [~~302A-1006(q).~~] 302A-1006(r)."

8 SECTION 5. Section 302L-11, Hawaii Revised Statutes, is
9 amended by amending subsection (l) to read as follows:

10 "(l) As used in this section:

11 "Department" means the department of education.

12 "Employee" has the same meaning as defined in section
13 [~~302A-1006(q).~~] 302A-1006(r).

14 "Final finding" has the same meaning as defined in section
15 [~~302A-1006(q).~~] 302A-1006(r).

16 "Harm to students registry" or "registry" has the same
17 meaning as defined in section [~~302A-1006(q).~~] 302A-1006(r).

18 "Inflicted harm on a student" or "infliction of harm on a
19 student" has the same meaning as defined in section [~~302A-~~
20 ~~1006(q).~~] 302A-1006(r).



1 "Institution" has the same meaning as defined in section
2 [~~302A-1006(q)~~] 302A-1006(r).

3 "Investigation" has the same meaning as defined in section
4 [~~302A-1006(q)~~] 302A-1006(r)."

5 SECTION 6. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 7. This Act shall take effect upon its approval.



Report Title:

DOE; Harm to Students Registry; Employee; Definition; Exemption
for Students

Description:

Clarifies the scope of the Department of Education's harm to
students registry by excluding K-12 students and by providing
that contractors and volunteers are included only if their roles
involves interaction with students. (CD1)

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not legislation or evidence of legislative intent.*

