

ACT 24

H.B. NO. 1346

A Bill for an Act Relating to Early Childhood Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that according to a joint statement drafted by the National Association for the Education of Young Children, with support from a host of other national organizations regarded as leaders in the field of early childhood education, every year, as many as 8,710 three- and four-year-old children nationwide may be expelled from their state-funded preschool or prekindergarten classroom. These suspensions and expulsions are occurring at a rate more than three times that of their peers in kindergarten through grade twelve.

The legislature further finds that many more children are suspended, with the data demonstrating severe racial disparities. Data from the United States Department of Education Office for Civil Rights indicates a significant percentage of these children are also suspended more than once, leaving them with few supports and even fewer options to ensure that they are able to participate in high-quality early learning.

The legislature additionally finds that this situation is particularly troubling given that these suspensions and expulsions occur during a critical period in a child's development, when a child's brain is developing rapidly. The earliest years of a child's life are critical to laying the foundation of learning and wellness needed for success in school and beyond. Especially during these early years, the educational system should ensure that our youngest children have access to opportunities that will prepare them to reach their greatest potential. By suspending or expelling them, the educational system instead sets our youngest off in the wrong direction, before they even begin kindergarten.

Well-established research indicates that school suspension and expulsion practices are associated with adverse educational and life outcomes. Suspension and expulsion early in a child's life predicts suspension and expulsion later in school. Children who are suspended or expelled from school are as much as ten

times more likely to drop out of high school, experience academic failure, hold negative attitudes toward school, and face incarceration than their peers who were never suspended or expelled.

Though each case is different, suspensions and expulsions may be the result of the lack of, or misguided, policies, or insufficient training and support services for staff, especially in managing challenging behaviors, recognizing trauma, and promoting socioemotional development. The executive office on early learning makes it a priority to provide professional learning support to executive office on early learning public prekindergarten program staff as well as to work with school leadership on staffing, and has also been partnering with the University of Hawaii system to strengthen the pipeline of early childhood educators with respect to these areas. The executive office on early learning focuses on these matters in its work because the target population for the executive office on early learning public prekindergarten program is underserved or at-risk children, those who stand to benefit the most from and should be assured of high-quality early learning, rather than be denied access to it due to suspension or expulsion.

In December 2014, the United States Department of Health and Human Services and Department of Education issued a joint policy statement and recommendations to assist states and their public and private local early childhood learning programs to prevent and severely limit suspensions and expulsions in early learning settings. The policy statement affirmed the departments' efforts to prevent and eventually eliminate suspension and expulsion in all early childhood settings and support young children's social, emotional, and behavioral development.

The federal Office of Head Start has already prohibited its programs from expelling or un-enrolling children due to a child's behavior and requires its programs to prohibit or severely limit the use of suspension due to a child's behavior. Federal Head Start programs are required to partner with families, consult with specialists, help the child and family obtain additional services as appropriate, and take all possible steps to ensure the child's successful participation in the program.

In alignment with national best practices and the federal government's efforts to more appropriately support our youngest children, the purpose of this Act is to prohibit the suspension and expulsion of children participating in the executive office on early learning public prekindergarten program, except in very limited circumstances.

SECTION 2. Section 302A-1134, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal, with the approval of the complex area superintendent[-]; provided that this section shall not apply to children participating in the executive office on early learning public prekindergarten program pursuant to section 302L-7. The department shall seek the active participation of other public and private agencies in providing help to these children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days from the date of such action.”

SECTION 3. Section 302L-7, Hawaii Revised Statutes, is amended to read as follows:

“§302L-7 Executive office on early learning public prekindergarten program; public preschools. (a) There is established within the early learning sys-

tem an early childhood education program to be known as the executive office on early learning public prekindergarten program and to be administered by the office pursuant to rules adopted by the office. The program shall:

- (1) Be provided through the executive office on early learning, which shall partner with the department of education and state public charter school commission through either a memorandum of agreement or memorandum of understanding pursuant to the requirements of this section;
 - (2) Prepare children for school and active participation in society through the use of either of the State's two official languages; and
 - (3) Provide access to high-quality early learning that addresses children's physical, cognitive, linguistic, social, and emotional development.
- (b) The office shall implement an application process for schools that are interested in participating in the program. The criteria to prioritize applications shall include:
- (1) Community need, including:
 - (A) The percentage of the population in the school or community that meets the definitions of at-risk and underserved children pursuant to section 302L-1; and
 - (B) The availability and capacity of existing early learning programs or services for four-year-old children on the school campus and in the surrounding area;
 - (2) The availability of a classroom and outdoor play area that meet department of human services requirements for health and safety for four-year-old children; and
 - (3) The commitment of the principal to implementing a high-quality prekindergarten program including through active participation in professional development sessions offered through the office, and to promoting continuity and alignment between and across other early learning programs in the community and other grade levels in the school to ensure the positive outcomes of children are sustained.
- (c) The program shall serve children in the year prior to the year of kindergarten eligibility, with priority extended to underserved or at-risk children, as defined in section 302L-1, and follow the academic year schedule of the department of education and be aligned with the full-day kindergarten classroom schedule of each school. Enrollment priority shall be given but is not limited to children who attend prekindergarten at schools to which the children will be assigned upon entering kindergarten under section 302A-1143.
- (d) The program shall include students with disabilities based on individualized education program placement, recognizing that the in-classroom ratio of students with disabilities to the general population shall be based on the inclusion of children with disabilities in proportion to their presence in the general population; provided that application of this principle does not anticipate or permit imposing caps or quotas on the number of children with disabilities in a program or not individualizing services for children with disabilities under the Individuals with Disabilities Education Act of 2004 (20 U.S.C. 1400-1409, 1411-1419, 1431-1444, 1450-1482). The department of education shall collaborate with the office to coordinate services for students with disabilities who are placed in the classroom offered through the program. Funding for all costs associated with implementation of the individualized education programs of students shall be provided through the department of education.
- (e) Enrollment in the program shall be voluntary. A child who is required to attend school pursuant to section 302A-1132, shall not be eligible for enrollment in the program.

(f) The program shall enroll a maximum of twenty children per classroom.

(g) The program shall incorporate high-quality standards pursuant to rules adopted by the office. High-quality standards shall be research-based, developmentally-appropriate practices associated with better educational outcomes for children, such as:

- (1) Positive teacher-child interactions that shall be evaluated through observations conducted by the office using a tool several times a year; provided that the observations shall not be used for the purposes of teacher evaluation;
- (2) Use of individual child assessments that are used for ongoing instructional planning, relating to all areas of childhood development and learning, including cognitive, linguistic, social, and emotional approaches to learning and health and physical development;
- (3) Family engagement in partnership with the schools, including conducting outreach for enrollment and engagement of families in their children's education;
- (4) Alignment with the Hawaii early learning and development standards, which align with department of education standards, state content and performance standards, and general learner outcomes for grades kindergarten to twelve, to facilitate a seamless and high-quality educational experience for children;
- (5) A teacher who has coursework in early childhood education pursuant to Hawaii teacher standards board licensing requirements for a prekindergarten teacher. For program purposes, a teacher shall satisfy the Hawaii teacher standards board licensing requirements for a prekindergarten teacher or be enrolled in a State-approved teacher education program and working toward satisfying the Hawaii teacher standards board licensing requirements; and
- (6) An educational assistant who has a child development associate credential or the associated coursework. For program purposes, an educational assistant shall have a current child development associate credential, coursework for a certificate that meets the requirements for child development associate credential preparation, or is enrolled in and working toward completing a program that prepares the individual to obtain the credential.

The office shall monitor implementation of the high-quality educational experience for children.

(h) Prior to opening a public prekindergarten class in a school, the principal, and other school personnel as required by the office, shall participate in an early learning induction program.

(i) The office shall provide support to incorporate the high-quality standards developed pursuant to subsection (g), including support related to teacher-child interactions, individual child assessments, and family engagement. Teaching staff participating in the program shall participate in coaching and mentoring offered through the office; provided that the office shall cover the associated travel and substitute teacher costs. The office may extend this support, excluding travel and substitute teacher costs, to individuals who are not participating in the program to promote alignment between all grade levels, programs, and settings.

(j) The teacher and educational assistant teaching in the classroom through the program shall provide direct services solely to students enrolled in the program and shall be provided time for meetings regarding program implementation in the program.

(k) The teacher and educational assistant teaching in the classroom through the program shall be included in school meetings and activities to promote alignment between all grade levels and settings, including school-wide professional development relating to social emotional learning, cultural and place-based instructional strategies, and transition to kindergarten.

(l) Each school participating in the program shall work with the office to develop and annually update a written two- to three-year plan to promote, within the school and community, alignment of and transitions between high-quality learning experiences, and submit to the office and the appropriate complex area superintendent a report on progress made toward the plan by the end of each school year.

(m) The office shall coordinate with other agencies and programs to facilitate comprehensive services for early learning.

(n) To promote the development of a cohesive, comprehensive, and sustainable early learning system, the office shall partner with the schools participating in the program to collaborate with:

- (1) Other early learning providers, including those providing the programs and services specified in section [302L-2(2)(A)], to promote alignment between prekindergarten and elementary school programs and to support children and their families in making successful transitions from prekindergarten into kindergarten; and
- (2) Early intervention programs.

(o) The office shall collect data with assistance from the department of education and state public charter school commission, based on a schedule to be determined by the office, to:

- (1) Evaluate the services provided;
- (2) Inform policy; and
- (3) Make any improvements to the program.

(p) The department of education and any public charter school existing pursuant to chapter 302D, may use available classrooms for public preschool programs statewide. The office shall give priority to public charter schools that serve high populations of underserved or at-risk children. Preschool classrooms established pursuant to this section shall be in addition to any classrooms used for the pre-plus program established pursuant to section 302L-1.7.

(q) All processes involved in implementation of this section related to students having special needs shall comply with federal law.

~~[(q)] (r)~~ The office shall adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section, including compliance with all applicable state and federal laws.

(s) The office shall prohibit the use of suspension in the program due to a child's behavior; provided that a temporary suspension may be used when there is a serious safety threat as determined by the administrator of the school.

The office shall prohibit the permanent removal of a student from the program due to a child's behavior; provided that when a child exhibits persistent and serious challenging behaviors, the administrator of the school shall consult with the office on how to address the behaviors.

The office shall implement chapter 19 of title 8, Hawaii Administrative Rules, for the purposes of the program, until the office develops and adopts rules to carry out the purposes of this subsection."

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

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

(Approved September 15, 2020.)