

ACT 76

S.B. NO. 2486

A Bill for an Act Relating to Education Data.

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

SECTION 1. (a) The legislature finds that:

- (1) Many factors contribute to poor student performance, including lost instruction time and chronic absence from school;
- (2) A student who has been suspended, even once, is less likely to graduate;
- (3) Discipline that keeps students engaged in the learning process and with the school community is more effective than discipline that interrupts the learning process and separates the learning community;
- (4) Although out-of-school and in-school suspensions are necessary in some situations, the excessive use of suspensions as a discipline measure is harmful to the educational process and to academic achievement;
- (5) Disparity in disciplinary rates does not necessarily indicate discrimination; it can result from an ineffective school climate or from cultural strategies that are not successful in engaging the academic and behavioral efforts of all students;
- (6) Accurate data collection relating to absenteeism, discipline, and learning allows school system personnel and the board of education to determine interventions as necessary to encourage student success;
- (7) By calculating rates of disproportionality among indicators of student performance, including discipline and absenteeism, the department can engage in remedial measures to ensure student success regardless of subgroup; and
- (8) The data collection, analysis, and reporting required by this Act is intended, in part, to preserve protections that may soon be lost if the United States Department of Education acts on its proposal, published on September 19, 2019, in the Federal Register, to cease collecting certain types of data from public schools and public charter schools for the Department's mandatory civil rights data collection.

(b) Based on the foregoing findings, the purpose of this Act is to require the department of education to:

- (1) Establish a standardized process for accurate data collection;
- (2) Collect data on indicators relating to school climate and student achievement, including data that may cease to be collected under the United States Department of Education's proposed rollback of mandatory civil rights data collection;
- (3) Make public, in a way that is understandable to families and advocates, data relating to school climate and student achievement;
- (4) Coordinate with the state public charter school commission regarding the collection, analysis, and dissemination of this data from public charter schools;
- (5) Analyze this data; and
- (6) Annually report this data to the board of education and legislature.

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

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

- (1) Review the accuracy of data reported by schools and complex areas;
- (2) Coordinate with the state public charter school commission regarding the collection, analysis, and dissemination of this data from public charter schools; and
- (3) Analyze and publish the data collected.

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

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

“§302A-1004 Educational accountability system; annual reports. (a) The department shall implement a comprehensive system of educational accountability to motivate and support the improved performance of students and the education system. Data shall be reported as required by this section when the number of students in a particular data subgroup is greater than ten and shall be redacted when the number of students in a particular data subgroup is ten or fewer; provided that the personally identifiable information of each student shall be kept private. This accountability system shall:

- (1) Include student accountability; school or collective accountability; individual professional accountability for teachers, principals, and other employees; and public accounting to parents, community members, businesses, higher education, media, and political leadership;
- (2) Link authority and resources to responsibility;
- (3) Define clear roles for all parties and lines of responsibility and mutual obligation and develop a collaborative process with stakeholders, including representatives of appropriate bargaining units, parents, administration, and students;
- (4) Assess and track measures of academic achievement, safety and well-being, and civic responsibility of individual students at select-grade levels, and annually report trend data from the past three years on these measures [~~ever time annually~~];

- (5) Invoke a full and balanced set of appropriate consequences for observed performance, including rewards and recognition for those schools that meet or exceed their goals, assistance to those that fall short, and sanctions for those that, given adequate assistance and ample time, continue to fail to meet goals;
- (6) Involve an annual statewide assessment program that provides a report card containing trend data from the past three years on school, school complex, and system performance at selected benchmark grade levels with performance indicators in areas relating to student achievement, safety and well-being, and civic responsibility. These performance indicators shall include but not be limited to:
 - (A) Student performance relative to statewide content and performance standards; ~~and~~
 - (B) School attendance and dropout rates; ~~and~~
 - (C) Student discipline, seclusion, and restraint information, in total and by unduplicated counts, disaggregated by subgroups consisting of race, including by Asian subgroup; ethnicity; national origin; gender; sex; English learner status; low-income status; students whose achievement is below grade level for the school year on literacy benchmark assessments, math benchmark assessments, or end-of-course assessments; and disability status based upon an individualized education program or upon section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), including but not limited to the following:
 - (i) In-school suspensions;
 - (ii) Out-of-school suspensions of one day or less; of two to five days; of six to nine days; of ten to twenty days; and of twenty-one or more days;
 - (iii) Expulsions;
 - (iv) Removals to an alternative education setting by school personnel;
 - (v) School-related arrests;
 - (vi) Referrals to law enforcement authorities;
 - (vii) Withdrawals for other reasons;
 - (viii) Number of parent or guardian-initiated withdrawals under section 302A-1132;
 - (ix) Number of school resource officers, either full-time or part-time, and the number of hours assigned to the school per week; and
 - (x) Other data that the board may approve;
- (7) Require that teachers and administrators engage in the continuous professional growth and development that ensure their currency with respect to disciplinary content, leadership skill, knowledge, or pedagogical skill, as appropriate to their position. This requirement may be established by the department in terms of credit hours earned or their equivalent in professional development activity certified by the department as appropriate in focus and rigor;
- (8) Establish an explicit link between professional evaluation results and individual accountability through professional development of the knowledge, skill, and professional behavior necessary to the position, by requiring that results of the professional evaluation be used by the department to prescribe professional development focus and content, as appropriate;

- (9) Include an annual statewide fiscal accountability program, which includes a published report card that contains trend data on school, school complex, and systemwide plans and results, including:
 - (A) Amounts allocated;
 - (B) Amounts expended;
 - (C) Amounts carried over; and
 - (D) Any significant changes to the budget, with an explanation for the change; and
- (10) Include an evaluation of the effectiveness of complex area superintendents and principals in supporting:
 - (A) Students' academic achievement, safety and well-being, and civic responsibility; and
 - (B) The satisfaction of stakeholders affected by the work of the complex area superintendents and principals, which may be measured by ~~[broad-based]~~ broad-based surveys; and
 - (C) Fiscal accountability.
- (b) The department shall annually post on the department's website ~~[information]~~:
 - (1) Information on the specifics of the implementation of the comprehensive accountability system~~[-, as well as]~~;
 - (2) Information on the fiscal requirements and legislative actions necessary to maintain and improve the accountability system~~[-]~~; and
 - (3) Data collected pursuant to subsection (a)(6)(C) on student discipline, as follows:
 - (A) The total number of students enrolled in the State by complex, school, and subgroup;
 - (B) The percentage of the school, complex, and State's total enrollment that the subgroup represents;
 - (C) The number of students who appear in more than one subgroup;
 - (D) The disciplinary rate for each discipline measure described in subsection (a)(6)(C), based on the total student enrollment in each school and each complex;
 - (E) The disciplinary rate for each discipline measure described in subsection (a)(6)(C) with respect to each subgroup; and
 - (F) The rate of disciplinary disparity for each discipline measure described in subsection (a)(6)(C), with respect to each subgroup, as compared with the subgroup with the lowest disciplinary rate.
- (c) The department shall also annually post on its website a state-, complex-, and school-level report for each school that details the past three years and includes an analysis of any disproportionality among student subgroups using the performance indicators in subsection (a)(6). Each report shall be uniformly formatted and designed by the department so as to provide school-based users and the public with all pertinent information. Report data shall be downloadable in raw form. Report information ~~[that includes but is not limited to the following:]~~ shall include:
 - (1) Results of school-by-school assessments of educational outcomes;
 - (2) Summaries of each school's standards implementation design;
 - (3) Summary descriptions of the demographic makeup of the schools, with indications of the range of these conditions among schools within Hawaii;
 - (4) Comparisons of conditions affecting Hawaii's schools with the conditions of schools in other states;

- (5) Other ~~[such]~~ assessments ~~[as may be]~~ deemed appropriate by the board; ~~[and]~~
 - (6) Student discipline, seclusion, and restraint information by school, as required by this section; and
 - ~~[(6)]~~ (7) Any other reports required by this section.
- (d) The department shall provide electronic access to computer-based financial management, student information, and other information systems to the legislature and the auditor. The department shall submit to the legislature and to the governor, at least twenty days prior to the convening of each regular session, a school-by-school expenditure report that ~~[includes but is not limited to the following:]~~ shall include:
- (1) The financial analysis of expenditures by the department with respect to the following areas:
 - (A) Instruction, including face-to-face teaching, and classroom materials;
 - (B) Instructional support, including pupil, teacher, and program support;
 - (C) Operations, including non-instructional pupil services, facilities, and business services;
 - (D) Other commitments, including contingencies, capital improvement projects, out-of-district obligations, and legal obligations; and
 - (E) Leadership, including school management, program and operations management, and district management; and
 - (2) The measures of accuracy, efficiency, and productivity of the department, districts, and schools in delivering resources to the classroom and the student.
- (e) The superintendent of education is responsible for the development and implementation of an educational accountability system. The system shall include consequences and shall be designed through a collaborative process involving stakeholders that shall include parents, community members, the respective exclusive representatives, as well as others deemed appropriate by the superintendent.
- For the purposes of this section, negotiations under chapter 89 shall be between the superintendent or the superintendent's designee and the respective exclusive representative¹ and shall be limited to the impact on personnel arising from the superintendent's decision in implementing the educational accountability system. After the initial agreement is negotiated, provisions on the impact of the accountability on personnel may be reopened only upon mutual agreement of the parties.

(f) The department shall:

- (1) Annually submit a report to the board and to the legislature, as follows:
 - (A) The report shall identify discipline-related strategies, alternatives, and resources available to schools and complexes, and shall include the following:
 - (i) Student discipline, seclusion, and restraint data collected pursuant to subsection (a)(6)(C);
 - (ii) Data collected in accordance with the data elements shown in the United States Department of Education's 2015-2016 civil rights data collection relating to school finance, teacher experience and absenteeism, all early childhood education items, advanced placement test-taking items, references to gender identity in the defi-

- inition of “harassment on the basis of sex”, number of English language learner students enrolled in English language programs by disability status, participation in credit recovery programs, and any civil rights concerns or complaints from children with disabilities placed by school districts in nonpublic schools; and
- (iii) Information regarding staffing and contact information for school- and complex-level equity specialists; and
 - (B) The report may include additional information, as determined by the department, that would assist in better understanding the disciplinary rate or rate of disciplinary disparity of a particular school or complex;
 - (2) Track the progress made by schools and complexes over the past three years in reducing the disciplinary rates and rate of disciplinary disparity that are referenced in subsection (b)(3)(D) through (F);
 - (3) Assess the changes in student academic achievement and absenteeism rates over the past three years that correspond to any reduction in disciplinary rates and rates of disciplinary disparity that are referenced in subsection (b)(3)(D) through (F);
 - (4) Track the use of restraints over the past three years; and
 - (5) Report annually to the board, and make public on its website, the following:
 - (A) Changes in the use of discipline over the past three years; and
 - (B) Information on the extent to which schools and complexes are implementing evidence-based strategies, including positive behavior interventions, support systems, or restorative justice.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

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

(Became law on September 15, 2020, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. Prior to amendment “.” appeared here.
2. Edited pursuant to HRS §23G-16.5.