

ADDITIONAL BILL TO BE CONSIDERED BY THE LEGISLATIVE COMMITTEE

MEASURE	SUBJECT	TITLE	DESCRIPTION
HB688 hd1	Keiki Caucus; Safe Schools Act; Bullying	Relating to Education	Requires the department of education to maintain, monitor, and enforce anti-bullying and anti-harassment policies and procedures to protect students or groups of students from bullying, cyberbullying, and harassment. Effective January 7, 2059.
HB338 hd1	Board of Education; Appointment; Student Member	Relating to Education	Sets the terms and conditions of a student voting member on an appointed Board of Education. (HB338 HD1)
HB546	Civil Rights; Nondiscrimination; Gender Identity	Relating to Civil Rights	Prohibits discrimination on the basis of gender identity and expression as a public policy matter and specifically with regard to employment.
SB934 sd2	Bullying; Cyberbullying	Relating to Bullying and Cyberbullying	Establishes a bullying and cyberbullying policy for all public schools. Requires implementation of the policy in all public schools. Establishes bullying and cyberbullying reporting requirements for all public and private schools. Establishes a misdemeanor offense of bullying or cyberbullying a minor. Defines "bullying" and "cyberbullying". Requires the department of education and the charter school review panel to report to the legislature annually. (SD1)
SB871 sd1	Home Schooling; Extracurricular Activities	Relating to Extracurricular Activities	Requires the department of education and the board of education to develop policies and procedures to allow home schooled students to participate on an equal basis in extracurricular activities offered at the public school they would otherwise be required to attend. Requires a report to the legislature no later than twenty days prior to the convening of the regular session of 2012. (SD1)
SB922 sd1	Keiki Caucus; Comprehensive Sex Education	Relating to Health	Specifies additional elements of Hawaii's existing sexuality health education law and its implementation. Requires the department of education (DOE) to provide certain types of information to the public and to parents. Allows parents to opt out of the DOE's sexuality health education

House Comm. on Judiciary
Hearing: Thurs., Feb. 17, 2011
2:00 p.m., Conf. Room 325

Testimony in STRONG SUPPORT of HB688
Relating to Education: SAFE SCHOOLS ACT

Chair Keith-Agaran, Vice-Chair Rhoads and Members of the Committee:

Thank you for allowing me to testify in my capacity as a member of the Hawaii State Board of Education (BOE); I testify in strong support of HB688, the Safe Schools Act.

According to the most recent U.S. CDC-funded survey, 51% of Hawaii's public high school students and 63% of middle school students "strongly agree or agree that harassment and bullying by other students is a problem at their school." Between surveys conducted in 2007 and 2009, the number of high school students who indicated that they were hurt by cyber-bullying increased by 34%. One of biggest increases of negative behaviors reported in this section of the survey was a 40% increase in the number of Hawaii middle school students indicating that they "had been harassed because someone thought they were gay, lesbian, or bisexual."

The BOE has updated the student discipline code, Hawaii Administrative Rule Chapter 8-19, to include cyber-bullying and added protected classifications for students. The BOE has adopted Policy #4211 to affirm its stance against bullying, harassment and discrimination of students by employees, and the BOE is scheduled to have a full and final vote on proposed amendments to HAR Chapter 8-41, to bring our student civil rights complaint procedures into compliance with recommendations the BOE received from the DOE's Safe Schools Community Advisory Committee.

The reason why I map the progress made by your BOE is to point out that the details and language of the Safe Schools Act is in alignment with the BOE's policies and administrative rules and the DOE's purported aspirations. However, I believe the DOE and our students, would benefit from a proactive statement from the Legislature and the Governor that decreasing the problem of bullying and harassment in our schools is a priority.

According to the US Department of Health and Human Services' website, Hawaii is one of only 5 states that does not have anti-bullying legislation. Let's not be the last. For the reasons stated above, I urge this Committee to pass the Safe Schools Act as is.

Thank you for your consideration.

Kim Coco Iwamoto, Esq., Oahu-at-Large Member

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 688
H.D. 1

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

SECTION 1. This Act shall be known as the Safe Schools Act.

SECTION 2. The legislature finds that all students have the right to participate fully in the educational process, free from bullying, cyberbullying, and harassment. A safe and civil environment in school is necessary for students to learn and to meet high academic standards. Bullying and harassment, like other disruptive or violent behaviors, are forms of conduct that disrupt both a student's ability to learn and a school's ability to educate its students in a safe environment. The legislature finds that because students learn by example, school administrators, faculty, staff, and volunteers should be expected to demonstrate appropriate behavior, treat others with civility and respect, and refuse to tolerate bullying and harassment.

The purpose of this Act is to require the department of education to maintain, monitor, and enforce anti-bullying and anti-harassment policies and procedures to protect students.

SECTION 3. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302A- Bullying, cyberbullying, and harassment; departmental responsibilities. (a) This section shall apply to conduct occurring

on all public elementary and secondary school premises, at any school-sponsored functions or activities, and on school-sponsored transportation. This section also applies to electronic technology usage and electronic communications that occur on all public elementary and secondary school premises, at any school-sponsored functions or activities, on school-sponsored transportation, and on school computers, networks, forums, and mailing lists.

(b) The department shall maintain and monitor anti-bullying and anti-harassment policies that:

- (1) Are applicable to grades kindergarten through twelve; and
- (2) Contain definitions of bullying, cyberbullying, and harassment, as defined in section 302A-101.

(c) The department shall maintain and enforce appropriate procedures that incorporate:

- (1) Effective publicizing of the policies established pursuant to subsection (b), including adding a statement of those policies to new employee training materials, student handbooks, and any other publication that sets forth comprehensive rules, procedures, and standards of conduct for schools;
- (2) Conducting annual training at the school level on how to promote peace and respect and how to intervene when students are engaged in bullying, cyberbullying, or harassing behavior;
- (3) The investigation of violations of this section;
- (4) Reporting and response mechanisms that address the failure of schools, complex areas, and administrators in implementing this section;

- (5) Mechanisms for reporting incidents of bullying, cyberbullying, and harassment by complex areas and schools;
- (6) Making available to the public statewide statistics concerning bullying, cyberbullying, and harassment, as defined in section 302A-101;
- (7) The filing of complaints against complex areas and schools upon their failure to comply with and implement policies pursuant to this section;
- (8) Establishing clear lines of accountability, including the designation of one person in the department as the primary contact regarding anti-bullying and anti-harassment policies who shall receive copies of all formal and informal complaints, be responsible for assuring the implementation of policies and procedures pursuant this section, and serve as the primary contact on the policies and procedures between the school district and the department;
- (9) Requiring school employees and trained volunteers who witness incidents of bullying, cyberbullying, or harassment, or possess reliable information that would lead a reasonable person to suspect that a person is a target of bullying, cyberbullying, or harassment, to promptly report those incidents or that information to the school principal, complex area superintendent, or superintendent;
- (10) Prompt investigation of reports or complaints of bullying, cyberbullying, or harassment, and identification of either the principal or the principal's designee as the person responsible for the investigation;
- (11) Delineation of the range of ways in which a school will

respond once an incident of bullying, cyberbullying, or harassment is identified, including a range of potential age-appropriate education-focused consequences that correspond to the prohibited bullying, cyberbullying, and harassment acts;

- (12) The provision of appropriate referrals or resources to student victims, perpetrators, and their respective families, if necessary;
- (13) Provisions that prohibit reprisal or retaliation against any person who reports an act of bullying, cyberbullying, or harassment and describe appropriate remedial action for a person who engages in reprisal or retaliation;
- (14) Provisions that allow for anonymous reporting while clarifying that no remedial action shall be undertaken solely on the basis of an anonymous report;
- (15) The collection, reporting, and analyzing, at least on an annual basis, of data on incidents of bullying, cyberbullying, and harassment; and
- (16) The establishment of a school community culture that integrates the aloha spirit as defined in section 5-7.5, evidence-based anti-bullying and anti-harassment policies and procedures, and peace promoting elements into each school's curriculum, and creates and encourages an environment of safety and respect for all."

SECTION 4. Section 302A-101, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Bullying" means any written, verbal, graphic, or physical act or acts that:

- (1) A student or group of students exhibits toward another student or group of students;
- (2) Cause mental or physical harm to the other student or group of students; and
- (3) Are sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment.

Bullying includes conduct that is based on a student's actual or perceived race, color, national origin, sex, gender identity or expression, sexual orientation, physical or mental disability, religion, physical appearance and characteristic, or socio-economic status; or a student's association with a person or group with one or more of these actual or perceived characteristics.

"Cyberbullying" means an act or acts exhibited by one student or group of students to another student or group of students that:

- (1) Are conveyed by electronic transmission via the Internet, a cell phone, a personal digital assistant (PDA), or a wireless hand-held device;
- (2) Cause mental or physical harm to the student or group of students that receives the electronic transmission; and
- (3) Are sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment.

"Harassment" means harassing, bullying, including cyberbullying, annoying, or alarming a student or group of students by engaging in conduct that includes:

- (1) Striking, shoving, kicking, or otherwise touching a student or group of students in an offensive manner or subjecting

that student or group of students to offensive physical contact;

- (2) Insulting, taunting, or challenging another student or group of students in a manner likely to provoke a violent response;
- (3) Making verbal or non-verbal expressions that cause another student or group of students to feel uncomfortable, pressured, threatened, or in danger because of reasons that include the student's or group's actual or perceived race, color, national origin, sex, gender identity or expression, sexual orientation, physical or mental disability, religion, physical appearance and characteristic, and socio-economic status, or association therewith, that creates an intimidating, hostile, or offensive educational environment, or interferes with the education of a student or group of students, or otherwise adversely affects the educational opportunity of a student or group of students;
- (4) Name calling, making rude gestures, insulting, or teasing another student or group of students who, as a result, feels humiliated, intimidated, threatened, or embarrassed;
- (5) Making a telephone call without the purpose of legitimate communication;
- (6) Making repeated communications anonymously, at extremely inconvenient hours, or in offensively coarse language on campus or other department of education premises, on department of education transportation, or during a department of education-sponsored activity or event on or off school property;
- (7) Causing fear as to prevent other students or groups of

students from gaining legitimate access to or use of school buildings, facilities, services, or grounds such as restroom facilities; and

(8) Physically harming, physically restraining, threatening, or stalking, or a combination thereof."

SECTION 5. The department of education shall submit a report regarding the implementation of this Act, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2012.

SECTION 6. The provisions of this Act shall be liberally construed to give effect to the purposes thereof.

SECTION 7. Nothing in this Act is intended to interfere with the First Amendment rights of free speech and expression of any person affected.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. New statutory material is underscored.

SECTION 10. This Act shall take effect upon on January 7, 2059.

Report Title:

Keiki Caucus; Safe Schools Act; Bullying

Description:

Requires the department of education to maintain, monitor, and enforce anti-bullying and anti-harassment policies and procedures to protect students or groups of students from bullying, cyberbullying, and harassment. Effective January 7, 2059. (HB688 HD1)

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

House Committee on Finance
Hearing: Monday, February 28, 2011
2:30 p.m., Conference Room 308

Testimony in **Strong Support of HB338 hd1**
Relating to Education: Student Voting Member of Board of Education

Chair Oshiro, Vice-Chair Lee and Members of the Committee:

I submit testimony in my capacity as a Member of the Hawai'i State Board of Education (BOE) in strong support of HB338 hd1, which would require that one of the voting members on the BOE, be a student.

The National Association of State Boards of Education affirmed: "the contribution of students to the education policymaking process is without question an asset to the states and local communities that presently have students serving on boards of education." There are currently fourteen states that have student input on the state board. In California and Massachusetts, students on the Board of Education are full voting members on all matters before the board.

During the past four years, I have had the opportunity to work with four student board members. They were always prepared to discuss the subjects posted on the agenda. These student representatives asked insightful questions, offered constructive comments and were excellent advocates for the student stakeholders. I did not always agree with the student board member's positions on every matter but I was always impressed with their arguments.

For these reasons, I urge this Committee to pass HB338 hd1. Thank you for your consideration.

Yours truly,

Kim Coco Iwamoto, Esq.
State of Hawaii Board of Education Member, Oahu-at-Large

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 338
H.D. 1

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302A- Board of education members; appointment; student member. (a) The board shall include one voting member who shall be a public high school student at the time of that member's appointment; provided that the student member shall not vote on any issue directly pertaining to personnel matters.

The student member shall be appointed by the governor, with the advice and consent of the senate, and may be removed by the governor.

(b) The student member shall have at least an overall 2.0 grade point average and be passing courses for graduation. The term of the student member shall be one year. The student member may be reappointed for one additional consecutive term; provided that the member shall be a student at the time of reappointment and shall be a student for the majority of that term. If a student member is to be appointed to a second term, the senate shall consider the question of whether to reconfirm the member at least one hundred twenty days prior to the expiration of the member's first term; provided that if the senate is not in session after the member's reappointment by the

governor to a second term and prior to the expiration of the one hundred twenty-day deadline by which the senate shall have considered the question of reconfirmation, the member shall continue to serve until the senate takes final action on the reconfirmation when it convenes for the next regular session or the next special session during which the senate is authorized to consider the question of reconfirmation.

(c) The student member may serve beyond the expiration date of the member's term of appointment until the member's successor has been appointed by the governor and confirmed by the senate in accordance with article X, section 2, of the Hawaii State Constitution."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

Report Title:

Board of Education; Appointment; Student Member

Description:

Sets the terms and conditions of a student voting member on an appointed Board of Education. (HB338 HD1)

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

House Committee on Judiciary
Hearing: Tuesday, February 22, 2011
2:00 p.m., Conference Room 325

Testimony in Strong Support of HB546
Relating to Civil Rights

Chair Keith-Agaran, Vice-Chair Rhoads and Members of the Committee:

I submit testimony in my capacity as a Member of the Hawai'i State Board of Education (BOE) because ALL of our students and graduates entering the workforce should have equal access to employment opportunities, regardless of their gender expression or identity.

BOE Policy #4211, an anti-discrimination policy that includes "gender identity & expression" among the list of protected classification states, in relevant part: "A student shall not be excluded from participation in, be denied the benefits of, or otherwise be subjected to . . . discrimination under any program, services, or activity of the Department of Education."

Our students' access to equal opportunities should not stop at the schoolyard gates. According to the Hawai'i Department of Labor and Industrial Relations, approximately 13,000 work permits are issued every year to young people between the ages of 14-17 years old.

The Department of Education (DOE) prepares its graduates for both college and careers. The DOE is currently rolling out 61 various Career & Technical Education programs to better prepare our graduates to meet the demands of today's workplace. I urge this Committee to support HB546 to better prepare our workplace to employ and promote today's graduates based on their industry knowledge and work ethic - and NOT on the bases of their gender identity or expression.

Thank you for your consideration.

Kim Coco Iwamoto, Esq.
State of Hawaii Board of Education Member, Oahu-at-Large

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 546

A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS.

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

SECTION 1. The purpose of this Act is to clarify existing law with regard to sex discrimination and provide that discrimination based upon gender identity or expression constitutes a form of sex discrimination.

SECTION 2. Section 378-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth."

SECTION 3. Section 368-1, Hawaii Revised Statutes, is amended to read as follows:

"§368-1 **Purpose and intent.** The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, including gender identity or expression, sexual orientation, marital status, national origin, ancestry, or disability in

employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy. It is the purpose of this chapter to provide a mechanism which provides for a uniform procedure for the enforcement of the State's discrimination laws. It is the legislature's intent to preserve all existing rights and remedies under such laws."

SECTION 4. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

"§378-2 Discriminatory practices made unlawful; offenses defined. It shall be an unlawful discriminatory practice:

- (1) Because of race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest and court record:
 - (A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment;
 - (B) For any employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual;
 - (C) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination;

- (D) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees; or
 - (E) For any employer or labor organization to refuse to enter into an apprenticeship agreement as defined in section 372-2; provided that no apprentice shall be younger than sixteen years of age;
- (2) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because the individual has opposed any practice forbidden by this part or has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;
 - (3) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so;
 - (4) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard;
 - (5) For any employer to refuse to hire or employ or to bar or discharge from employment, any individual because of assignment of income for the purpose of satisfying the individual's child support obligations as provided for under section 571-52;
 - (6) For any employer, labor organization, or employment agency to exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an

individual with whom the qualified individual is known to have a relationship or association;

- (7) For any employer or labor organization to refuse to hire or employ or to bar or discharge from employment, or withhold pay, demote, or penalize a lactating employee because an employee breastfeeds or expresses milk at the workplace. For purposes of this paragraph, the term "breastfeeds" means the feeding of a child directly from the breast; or
- (8) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment of any individual because of the individual's credit history or credit report, unless the information in the individual's credit history or credit report directly relates to a bona fide occupational qualification under section 378-3(2)."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. New statutory material is underscored.

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

INTRODUCED BY: _____

Report Title:

Civil Rights; Nondiscrimination; Gender Identity

Description:

Prohibits discrimination on the basis of gender identity and expression as a public policy matter and specifically with regard to employment.

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

Senate Committee on Judiciary and Labor
Hearing: Thursday, February. 24, 2011
9:00 a.m., Room 016

Testimony in SUPPORT of SB934sd1 with Amendments
RELATING TO BULLYING AND CYBERBULLYING

Chair Hee, Vice-Chair Shimabukuro and Members of the Committee on Judiciary and Labor:

Thank you for allowing me to testify in my capacity as a member of the Hawaii State Board of Education (BOE); I testify in support of SB934sd1 with Amendments.

According to the most recent U.S. CDC-funded survey, 51% of Hawaii's public high school students and 63% of middle school students "strongly agree or agree that harassment and bullying by other students is a problem at their school." Between surveys conducted in 2007 and 2009, the number of high school students who indicated that they were hurt by cyber-bullying increased by 34%.

The BOE has updated the student discipline code, Hawaii Administrative Rule Chapter 8-19, to include cyber-bullying and added protected classifications for students. The BOE has adopted Policy #4211 to affirm its stance against bullying, harassment and discrimination of students by employees. And the BOE has proposed amendments to HAR Chapter 8-41 to bring our student civil rights complaint procedures into compliance with recommendations the BOE received from the Department of Education's (DOE's) Safe Schools Community Advisory Committee.

The DOE claims that SB934sd1 is unnecessary because it is already working towards the accountability measures listed in the bill. However, I must report, with the utmost respect for the DOE, that it has not adequately implemented its own recommendations. In fact its own internal desk review of its Safe Schools programs received the lowest scores in the areas of effectiveness and continuous improvement. Passage of an SB934 would send a clear message to the DOE that the BOE, the Legislature and the Governor share the same commitment to decreasing the incidences of bullying in our schools.

According to the US Department of Health and Human Services' website, Hawaii is one of only 5 states that does not have anti-bullying legislation. Let's not be the last. For the reasons stated above, I urge this Committee to pass the SB934sd1 with the following amendments:

Please consider amending SB934sd1 by adding in “socio-economic status” as a protected class in the definition of “bullying”. This would be consistent with the DOE SSCAC recommendations and the BOE’s own anti-bullying policy, Policy #4211.

Please also consider removing the criminalization of all bullying. A school’s prime directive should be to intervene through education, not criminalization. We do not need to feed more children into the school to prison pipeline. The juvenile justice system is not the most effective solution to this particular crisis.

While I believe the community should be allowed access to the numbers of incidents of bullying, I do not think mandating the reporting of all incidences of bullying to the police would further that goal.

Thank you for your consideration.

Kim Coco Iwamoto, Esq., Oahu-at-Large Member

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

S.B. NO. 934
S.D. 1

A BILL FOR AN ACT

RELATING TO BULLYING AND CYBERBULLYING.

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

SECTION 1. The legislature finds that bullying and cyberbullying among students have a detrimental effect on academic achievement as well as the psychological, social, and physical well-being of students K-12. Bullying also directly affects students' attitudes toward school, school attendance, and academic achievement. According to a June 25, 2007 report from the department of education safe schools community advisory committee entitled "Recommendations for Addressing Harassment in Hawaii Public Schools", bullying and harassment are common features of American school life. A 2003 nationally representative study of sixth to tenth grade students found that in the previous year thirteen per cent had engaged in bullying behaviors, eleven per cent had been victims, and six per cent had been victims and had engaged in bullying behaviors.

The purpose of this Act is to provide greater protection for Hawaii's children, both in and out of school settings, by:

- (1) Establishing a bullying and cyberbullying policy for all public schools;
- (2) Requiring implementation of the policy in all public schools;
- (3) Establishing bullying and cyberbullying reporting

requirements for all public and private schools;

- (4) Requiring the department of education and the charter school review panel to each submit an annual report to the legislature on the status of the implementation of the policy established pursuant to this Act, statistics on bullying and cyberbullying, and the impact of the policy on bullying and cyberbullying in the schools; and
- (5) Establishing a misdemeanor offense of bullying or cyberbullying a minor.

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

"§302A- **Bullying and cyberbullying; policy; reporting.** (a)

No student shall be subjected to bullying or cyberbullying:

- (1) During any education program or activity;
- (2) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, and at school-sanctioned events; or
- (3) Through the use of data, telephone or computer software that is accessed through a computer, computer system, or computer network of any public school.

(b) The department of education shall adopt rules to implement a policy prohibiting bullying and cyberbullying, as defined in subsection (f). The department shall involve students, parents, legal guardians, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy. The department's policy shall be implemented in

a manner that is ongoing throughout the school year and integrated with a school's curriculum, discipline policies, and other violence prevention efforts.

(c) The policy adopted by the department pursuant to subsection (b) shall contain, at a minimum, the following components:

(1) Notice of the policy, which shall include:

- (A) A statement prohibiting bullying or cyberbullying, as defined in subsection (f);
- (B) A statement prohibiting retaliation or false accusation against a student target, witness, or individual with reliable information about an act of bullying or cyberbullying;
- (C) A requirement that all students are protected regardless of their status under the law;
- (D) A statement of how the policy is to be publicized, including requirements that:
 - (i) Annual written notice of the policy shall be provided to parents, legal guardians, staff, volunteers, and students, with age appropriate language for students;
 - (ii) Posting of the policy in several locations in each public school, including but not limited to cafeterias, school bulletin boards, and administration offices, and the department's website; and
 - (iii) Inclusion of the policy in all student conduct and employee handbooks;
- (E) A procedure for providing immediate notification to the

parents or legal guardian of a victim of bullying or cyberbullying and the parents or legal guardian of the perpetrator of the bullying or cyberbullying;

(F) The identification by job title of school officials responsible for ensuring that the policy is implemented;

(G) A statement that the policy will apply to an electronic communication whether or not the bullying or cyberbullying originated on school property or with school equipment; provided that:

(i) The bullying or cyberbullying act can be reasonably expected to have the effect of:

(aa) Harming a student, damaging the student's property, or placing a student in reasonable fear of harm or damage to the student's property; and

(bb) Insulting or demeaning any student or group of students in such a way as to cause substantial disruption in or substantial interference with the orderly operation of the school; or

(ii) The bullying or cyberbullying act is directed specifically at students with the intended purpose of disrupting school, and the act has a high likelihood of succeeding in that purpose;

(2) Reporting and investigation procedures and requirements, which shall include:

(A) A procedure for reporting an act of bullying or

- cyberbullying, including a provision that permits a person to report a bullying or cyberbullying act anonymously; provided that no formal disciplinary action shall be taken solely on the basis of an anonymous report;
- (B) A requirement that any school employee that has reliable information which would lead a reasonable person to suspect that a student is a target of bullying or cyberbullying immediately report the information to the principal or the principal's designee;
- (C) A procedure for each school to document any prohibited incident that is reported and a procedure to report all incidents of bullying or cyberbullying and the resulting consequences, including discipline and referrals, to the board on a semi-annual basis;
- (D) A procedure for reporting to law enforcement all acts of bullying or cyberbullying that may constitute criminal activity; and
- (E) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;
- (3) Penalties, remedies, and victim assistance that include:
- (A) Penalties, consequences, and appropriate remedial action for a student who commits an act of bullying or cyberbullying;
- (B) Penalties, consequences, and appropriate remedial action for a student found to have falsely accused another as a means of retaliation, reprisal, or as a means of

bullying or cyberbullying;

- (C) A strategy for providing counseling or referral to appropriate services, including guidance, academic intervention, and protection to student targets and perpetrators, and appropriate family members affected by bullying or cyberbullying, as necessary;
 - (D) A statement encouraging public schools to form bullying prevention task forces, programs, and other initiatives involving school staff, students, administrators, volunteers, parents, legal guardians, law enforcement, community members, and other stakeholders; and
- (4) Training and assessment, including the following educational programs to prevent bullying or cyberbullying:
- (A) Annual training for administrators, school employees, and volunteers who have significant contact with students in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and
 - (B) An educational program for students, parents, and legal guardians in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying.
- (d) Nothing in this section shall be construed to prohibit or prevent a teacher, official, or other employee or volunteer of the department from reporting other offenses to the principal or the principal's designee.
- (e) A student, parent, legal guardian, teacher, official, or other employee or volunteer of the department who promptly reports in good faith an act of bullying or cyberbullying to the appropriate school official designated in the department's policy and who makes

this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

(f) For the purposes of this section:

"Bullying" or "cyberbullying" means any written, verbal, or physical act, or any electronic communication including but not limited to a communication shown to be motivated by a student's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, physical, mental, emotional, or learning disability, gender, gender identity and expression, or other distinguishing personal characteristic, when the written, verbal, or physical act or electronic communication is intended to:

- (1) Physically harm a student or damage the student's property;
- (2) Substantially interfere with a student's educational opportunities;
- (3) Be so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- (4) Substantially disrupt the orderly operation of the school.

"Electronic communication" means any communication through an electronic device including but not limited to a telephone, cellular phone, computer, or pager, which communication includes but is not limited to electronic mail (e-mail), instant messaging, text messages, blogs, mobile phones, pagers, online games, and websites.

(g) The department shall submit an annual report to the legislature that shall include the status of the implementation of the policy established pursuant to this section, statistics on bullying and cyberbullying, and the policy's impact on bullying and cyberbullying in schools no later than twenty days prior to the

convening of each regular session of the legislature."

SECTION 3. Chapter 302B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302B- **Bullying and cyberbullying; policy; reporting.** (a)

No student shall be subjected to bullying or cyberbullying:

(1) During any education program or activity;

(2) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, and at school-sanctioned events; or

(3) Through the use of data, telephone or computer software that is accessed through a computer, computer system, or computer network of any public charter school.

(b) The panel shall adopt rules to implement a policy prohibiting bullying and cyberbullying, as defined in subsection (f). The panel shall involve students, parents, legal guardians, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy. The panel's policy shall be implemented in a manner that is ongoing throughout the school year and integrated with a charter school's curriculum, discipline policies, and other violence prevention efforts.

(c) The policy adopted by the panel pursuant to subsection (b) shall contain, at a minimum, the following components:

(1) Notice of the policy, which shall include:

(A) A statement prohibiting bullying or cyberbullying, as defined in subsection (f);

- (B) A statement prohibiting retaliation or false accusation against a student target, witness, or individual with reliable information about an act of bullying or cyberbullying;
- (C) A requirement that all students are protected regardless of their status under the law;
- (D) A statement of how the policy is to be publicized, including requirements that:
 - (i) Annual written notice of the policy shall be provided to parents, legal guardians, staff, volunteers, and students, with age appropriate language for students;
 - (ii) Posting of the policy in several locations in each charter school, including but not limited to cafeterias, school bulletin boards, and administration offices, and the office's website; and
 - (iii) Inclusion of the policy in all student conduct and employee handbooks;
- (E) A procedure for providing immediate notification to the parents or legal guardian of a victim of bullying or cyberbullying and the parents or legal guardian of the perpetrator of the bullying or cyberbullying;
- (F) The identification by job title of school officials responsible for ensuring that the policy is implemented;
- (G) A statement that the policy will apply to an electronic communication whether or not the bullying or

cyberbullying originated on school property or with school equipment;

provided that:

(i) The bullying or cyberbullying act can be reasonably expected to have the effect of:

(aa) Harming a student, damaging the student's property, or placing a student in reasonable fear of harm or damage to the student's property; and

(bb) Insulting or demeaning any student or group of students in such a way as to cause substantial disruption in or substantial interference with the orderly operation of the school; or

(ii) The bullying or cyberbullying act is directed specifically at students with the intended purpose of disrupting school, and the act has a high likelihood of succeeding in that purpose;

(2) Reporting and investigation procedures and requirements, which shall include:

(A) A procedure for reporting an act of bullying or cyberbullying, including a provision that permits a person to report a bullying or cyberbullying act anonymously; provided that no formal disciplinary action shall be taken solely on the basis of an anonymous report;

(B) A requirement that any school employee that has reliable information which would lead a reasonable person to suspect that a student is a target of bullying or

cyberbullying immediately report the information to the principal or the principal's designee;

(C) A procedure for each school to document any prohibited incident that is reported and a procedure to report all incidents of bullying or cyberbullying and the resulting consequences, including discipline and referrals, to the panel on a semi-annual basis;

(D) A procedure for reporting to law enforcement all acts of bullying or cyberbullying that may constitute criminal activity; and

(E) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(3) Penalties, remedies, and victim assistance that include:

(A) Penalties, consequences, and appropriate remedial action for a student who commits an act of bullying or cyberbullying;

(B) Penalties, consequences, and appropriate remedial action for a student found to have falsely accused another as a means of retaliation, reprisal, or as a means of bullying or cyberbullying;

(C) A strategy for providing counseling or referral to appropriate services, including guidance, academic intervention, and protection to student targets and perpetrators, and appropriate family members affected by bullying or cyberbullying, as necessary;

(D) A statement encouraging charter schools to form bullying

prevention task forces, programs, and other initiatives involving school staff, students, administrators, volunteers, parents, legal guardians, law enforcement, community members, and other stakeholders; and

(4) Training and assessment, including the following educational programs to prevent bullying or cyberbullying:

(A) Annual training for administrators, school employees, and volunteers who have significant contact with students in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and

(B) An educational program for students, parents, and legal guardians in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying.

(d) Nothing in this section shall be construed to prohibit or prevent a teacher, official, or other employee or volunteer of the department from reporting other offenses to the principal or the principal's designee.

(e) A student, parent, legal guardian, teacher, official, or other employee or volunteer of the department who promptly reports in good faith an act of harassment, intimidation, bullying or cyberbullying to the appropriate school official designated in the panel's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

(f) For the purposes of this section:

"Bullying" or "cyberbullying" shall have the same meaning as in section 302A- (f).

"Electronic communication" shall have the same meaning as in section 302A- (f).

(g) The panel shall submit an annual report to the legislature that shall include the status of the implementation of the policy established pursuant to this section, statistics on bullying and cyberbullying, and the policy's impact on bullying and cyberbullying in schools no later than twenty days prior to the convening of each regular session of the legislature."

SECTION 4. Chapter 302C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302C- **Bullying and cyberbullying; reporting.** (a) All private schools shall report to their respective county police departments any bullying or cyberbullying that occurs:

- (1) During any education program or activity;
- (2) While in school, on school equipment or property, in school vehicles, on school buses, and at designated school bus stops, at school-sponsored activities, and at school-sanctioned events; or
- (3) Through the use of data, telephone or computer software that is accessed through a computer, computer system, or computer network of any private school.

(b) For the purposes of this section:

"Bullying" or "cyberbullying" shall have the same meaning as in section 302A- (f)."

SECTION 5. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§707- Bullying or cyberbullying of a minor. (1) Any person who intentionally bullies or cyberbullies:

- (a) A minor known by the person to be under the age of eighteen years;
- (b) Another person, in reckless disregard of the risk that the other person may be under the age of eighteen years, and the other person is under the age of eighteen years; or
- (c) Another person represented through electronic communication to be under the age of eighteen years,

is guilty of bullying or cyberbullying a minor.

(2) For the purpose of this section:

"Bullying" or "cyberbullying" means any written, verbal, or physical act, or any electronic communication including but not limited to a communication shown to be motivated by a minor's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, physical, mental, emotional, or learning disability, gender, gender identity and expression, or other distinguishing personal characteristic, when the written, verbal, or physical act or electronic communication is intended to:

- (a) Physically harm a minor or damage the minor's property; or
- (b) Be so severe, persistent, or pervasive that it creates an intimidating or threatening environment.

"Electronic communication" shall have the same meaning as in section 302A- (f).

"Minor" means any person under the age of eighteen years.

(3) Bullying or cyberbullying a minor is a misdemeanor."

SECTION 6. Section 302A-1002, Hawaii Revised Statutes, is amended to read as follows:

" [†]§302A-1002 [†] **Reporting of crime-related incidents.** The board shall adopt rules pursuant to chapter 91 to:

- (1) Require a report to appropriate authorities from a teacher, official, or other employee of the department who knows or has reason to believe that an act has been committed or will be committed, which:
 - (A) Occurred or will occur on school property during school hours or during activities supervised by the school; and
 - (B) Involves crimes relating to arson, assault, bullying or cyberbullying, as defined in section 302A- (f), burglary, disorderly conduct, dangerous weapons, dangerous drugs, harmful drugs, extortion, firearms, gambling, harassment, intoxicating drugs, marijuana or marijuana concentrate, murder, attempted murder, sexual offenses, rendering a false alarm, criminal property damage, robbery, terroristic threatening, theft, or trespass;
- (2) Establish procedures for disposing of any incident reported; and
- (3) Impose, in addition to any other powers or authority the department may have to discipline school officials, appropriate disciplinary action for failure to report these incidents, including probation, suspension, demotion, and discharge of school officials."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 9. This Act shall take effect upon its approval.

Report Title:

Bullying; Cyberbullying

Description:

Establishes a bullying and cyberbullying policy for all public schools. Requires implementation of the policy in all public schools. Establishes bullying and cyberbullying reporting requirements for all public and private schools. Establishes a misdemeanor offense of bullying or cyberbullying a minor. Defines "bullying" and "cyberbullying". Requires the department of education and the charter school review panel to report to the legislature annually. (SD1)

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

Senate Committee on Ways and Means
Hearing: Tuesday, March 1, 2011
9:20 a.m., Conference Room 211

Testimony in **STRONG SUPPORT of SB871 sd1**
Relating to Education: Home School Student Equal Access to Extracurricular Activities

Chair Ige, Vice-Chair Kidani and Members of the Committee on Ways and Means:

Thank you for allowing me to testify in my capacity as a member of the Hawaii State Board of Education (BOE); I testify in strong support of SB871 sd1.

Although the BOE has not taken a position on SB871, in February of 2009, the BOE voted to Support HB493, which was the 2009 version of the bill you are hearing now.

As you know the Department of Education (DOE) is NOT mandated to provide extra-curricular activities to ANY student; however, we have determined that the benefits of such programs outweigh the costs. For all the reasons why our public education system supports extra-curricular activities for traditionally enrolled students, I support offering these same opportunities and benefits to home school students.

Opponents to this equal access measure continually cite the burden that will befall their schools: "How will we ensure these home school students are really maintaining a 2.0 grade point average?"

First of all, Hawaii Administrative Rule Chapter 8-12, Compulsory Attendance Exceptions (HAR 8-12), requires principals to monitor, test and evaluate home school student's progress. There is so much oversight provided by the principals that the DOE's Committee on Weights should allocate home school students their own weight so that schools have an incentive to attract more home school student participation.

Secondly, The DOE Guidelines on the 2.0 GPA rule allows each school to establish their separate internal system for academic checks. Whichever system, or forms, the individual school establishes can be checked by the home-school teacher just as well.

Thank you for your consideration.

Kim Coco Iwamoto, Esq.
State of Hawaii Board of Education Member, Oahu-at-Large

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

S.B. NO. 871
S.D. 1

A BILL FOR AN ACT

RELATING TO EXTRACURRICULAR ACTIVITIES.

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

SECTION 1. (a) The department of education and board of education shall develop policies and procedures to allow home schooled students to participate on an equal basis in extracurricular activities offered at the public school that the home schooled students would otherwise be required to attend.

(b) In developing policies and procedures pursuant to subsection (a), the department of education and the board of education shall examine the following:

- (1) The imposition of participation fees as a requisite to participate in extracurricular activities;
- (2) The inclusion of home schooled students who participate in extracurricular activities in the pupil enrollment of the public school where the student participates; and
- (3) Any other eligibility requirements for participation by home schooled students.

(c) The department of education shall report its findings, including the status of the development of policies and procedures pursuant to subsection (a), to the legislature no later than twenty days prior to the convening of the regular session of 2012.

SECTION 2. This Act shall take effect upon its approval.

Report Title:

Home Schooling; Extracurricular Activities

Description:

Requires the department of education and the board of education to develop policies and procedures to allow home schooled students to participate on an equal basis in extracurricular activities offered at the public school they would otherwise be required to attend.

Requires a report to the legislature no later than twenty days prior to the convening of the regular session of 2012. (SD1)

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Senate Committees on Health and Education
Hearing: Friday, February 4, 2011
2:45 p.m., Conference Rm. 225

Testimony in STRONG SUPPORT of SB922
Relating to Health: Medically Accurate Sexuality Health Education

Chairs Green & Tokuda, Vice-Chairs Nishihara & Kidani and Members of the Committees:

Thank you for allowing me to testify in my capacity as a member of the Hawaii State Board of Education (BOE); I testify in strong support of SB922.

The 2009 data collected from CDC-funded survey conducted in Hawaii public schools, reflect a growing rate of teens participating in sexual intercourse: 44.3%. More than half of these sexually active students reported that they did NOT use a condom: 52.3%. This rate was the highest in the nation, and reflects a disparity that is 34% worse than the national average.

I praise the introducers of SB922 for having the foresight to increase collaboration between the Departments of Health and Education to maximize the use of medically accurate and age-appropriate curricula. We must work together as a State to empower our students with the necessary information and resources to keep themselves safe and healthy.

Thank you for your consideration.

Kim Coco Iwamoto, Esq.
State of Hawaii Board of Education Member, Oahu-at-Large

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

S.B. NO. 922

A BILL FOR AN ACT

RELATING TO HEALTH.

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

SECTION 1. The legislature finds that sexuality health education promotes healthy attitudes on adolescent growth and development, body image, gender and sexuality, dating, relationships, and family. The legislature also finds that sexuality health education should positively affect adolescent behavior and provide teens with the information, skills, and support they need to develop positive values, make healthy decisions, and respect the important role that sexuality plays throughout a person's life. Within the past three years, several states, including Hawaii, have enacted laws that require school districts that teach sexuality health education to include age appropriate, medically accurate health education. The legislature finds that the effectiveness of sexuality health education in Hawaii's schools could be bolstered by providing clearer guidance on a comprehensive approach to sexuality health education, greater flexibility in the implementation of the curricula, and greater public access to the curricula.

The purpose of this Act is to:

- (1) Specify additional elements of Hawaii's existing sexuality health education law and implementation of the instruction;
- (2) Require the department of education to provide information

on the curricula to the public; and

- (3) Allow parents to request that their children not receive the sexuality health education provided pursuant to Hawaii's sexuality health education law.

SECTION 2. Section 321-11.1, Hawaii Revised Statutes, is amended to read as follows:

"~~[f]~~§321-11.1~~[f]~~ **Medically accurate sexuality health education.**

(a) Sexuality health education programs funded by the State shall provide medically accurate and factual information that ~~[is]~~:

- (1) Is age appropriate ~~[and includes]~~;
- (2) Includes education on abstinence, contraception, and methods of disease prevention to prevent unintended pregnancy and sexually transmitted disease, including human immunodeficiency virus~~[-]~~;
- (3) Helps students develop relationships and communication skills to form healthy relationships that are based on mutual respect and affection and are free from violence, coercion, and intimidation;
- (4) Helps students develop skills in critical thinking, problem solving, decision making, and stress management to make healthy decisions about sexuality and relationships; and
- (5) Encourages students to communicate with their parents, guardians, and other trusted adults about sexuality and intimate relations.

(b) Each public elementary, secondary, and alternative school operated by the department of education shall provide sexuality health education described under subsection (a).

(c) At their own discretion, teachers may answer in good faith

any question initiated by a student or students that is reasonably related to and consistent with the material of a course provided pursuant to subsection (a).

(d) The department of health, in consultation with the department of education, may eliminate or modify components of instruction under subsection (a)(2) in elementary school for reasons of age appropriateness.

(e) Sexuality health education under subsection (a) shall not discriminate on the basis of sex, race, ethnicity, national origin, disability, religion, sexual orientation, or gender identity.

(f) The department of health, in consultation with the department of education, shall develop, maintain, and make available to the public a current list of sexuality health education curricula that are consistent with the requirements under subsection (a).

(g) A student shall be excused from any part of the instruction provided pursuant to this section only upon the written request of the student's parent or legal guardian. A student may not be subject to disciplinary action, academic penalty, or other sanction if the student's parent or legal guardian requests that the student not receive the instruction provided under this section.

(h) The department of health shall adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section. The department of health, in consultation with the department of education, shall establish minimum education and training qualifications for sexuality health education teachers.

~~(b)~~ (i) For the purposes of this section:

"Age appropriate" means suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity

typical for that age or age group.

"Factual information" means medical, psychiatric, psychological, empirical, or statistical information that is verified or supported by research conducted by recognized medical, psychiatric, psychological, and public health professionals or organizations.

"Medically accurate" means verified or supported by research conducted in compliance with accepted scientific methods and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.

"Sexuality health education" means education in any medium regarding human development and sexuality, including education on pregnancy, family planning, and sexually transmitted diseases."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Keiki Caucus; Comprehensive Sex Education

Description:

Specifies additional elements of Hawaii's existing sexuality health education law and its implementation. Requires the department of education (DOE) to provide certain types of information to the public and to parents. Allows parents to opt out of the DOE's sexuality health education.

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