



HB2125 HD2 | SB3093

Relating to official school business

Created for SEAC March 2022 Meeting
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Throughout this discussion, there is complete agreement that all education workers, students and families should feel safe in all interactions during their school day and activities.

This is not limited to DOE employees but all teachers, students, and families.

HB2125 – was entered via the Governor’s Package in 2022

Measure Title: RELATING TO OFFICIAL SCHOOL BUSINESS.

Report Title: Harassment of an Educational Worker; Misdemeanor

Description: Creates a misdemeanor of harassment of an educational worker for disrupting or interfering with the administration or functions of any school, school administration office, or school board. Effective 7/1/2050. (HD1)

https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2125&year=2022

HB2125 HD2

SECTION 1. The purpose of this Act is to provide increased protection for educational workers to conduct school business by:

- (1) Requiring the department of education and board of education to take certain steps to better address harassment of its employees; and
- (2) **Establishing the offense of harassment** of an educational worker.

SECTION 3. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows: "**§711- Harassment of an educational worker.**

SECTION 3. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows: "**§711- Harassment of an educational worker.**

(1) A person commits the offense of harassment of an educational worker if, with intent to impede the government operations of an educational worker, that person **disrupts or interferes with the administration or functions of any school**, school administration office, or school board.

(2) Harassment of an educational worker is a **misdemeanor**. (3) For the purposes of this section, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education or an employee of a public charter school; a person who is a volunteer, as defined in section 90-1, in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out a department of education function."

The penalty for a misdemeanor is up to a \$2,000 fine and/or up to one year in prison.

During Interim Superintendent Hayashi's testimony, Mr. Russel Suzuki, HIDOE Risk Manager testified to the purpose of the bill:

Mr. Russel Suzuki (61:51): Can you see me? thank you. Yeah the just to answer a couple of the questions that has arisen here. um The attorney general's office did participate in uh drafting the legislation and it was included in the governor's administration package. So he has approval of the governor and the attorney general in this matter. To answer your question regarding the specific bill it's not just harassment but it also includes the component of interfering with the school's operations. What we mean by that is that there are certain parents adults and this law is strictly to focusing on the adults has nothing to do with prosecuting students but when a parent also interferes with the operations of the school for example clogging up the voicemails with threatening uh voice voicemails also not (62:42) accepting legal notices for hearings for example **in special education cases** the department is required to conduct their hearings and meetings in a timely manner or else they violate the idea the federal law parents such as the ones that we're (62:58) talking about refuse to accept emails, telephone notification or written (63:04) notification on purpose in order to (63:06) force the department to be in default (63:09) and therefore they can just coerce the (63:11) department in getting what they what they the results of what they want so **that's the reason for this bill** it's only for a certain amount of individual parents who use the system to force the department to not be able to comply with federal laws and state laws for timeliness as well as to clog up the emails clog up the of the voicemails with threatening email and communication so **that's the (63:38) whole purpose it's two-step not only do they harass but they also interfere with the operations of the school so that's the difference between this legislation and the regular harassment legislation.** thank you.



Mr. Russel Suzuki's testimony -

<https://www.youtube.com/watch?v=zyyF97yas4c>

Full hearing on 2/24/22 - <https://www.youtube.com/watch?v=zyyF97yas4c>
Bill begins at 13:30
Interim Superintendent Hayashi at 61:20; Mr. Suzuki, HIDOE Risk Manager at 61:51



REP. MCKELVEY'S CONCERN AND MR. SUZUKI'S TESTIMONY

Per Mr. Hayashi & Mr. Suzuki, the purpose of this bill is to targeted at Special Needs Parents.

Mr. Suzuki cites the following as the purpose of this bill:

- “it’s not just harassment”
- “but it also includes the component of interfering with the school’s operations.”
- “What we mean by that is that there are certain parents adults and this law is strictly to focusing but when a parent also interferes with the operations of the school for example:”
 - “clogging up the voicemails with threatening voice voicemails”
 - “not accepting legal notices for hearings for example **in special education cases** the department is required to conduct their hearings and meetings in a timely manner or else they violate the idea the federal law parents such as the ones that we’re talking about,”
 - “refuse to accept emails, telephone notification or written notification on purpose in order to force the department to be in default and therefore they can just coerce the department in getting what they what they the results of what they want so **that’s the reason for this bill**”
- “it’s only for a certain amount of individual parents who use the system to force the department to not be able to comply with federal laws and state laws for timeliness”
- “as well as to clog up the emails clog up the of the voicemails with threatening email and communication”
- “so **that’s the whole purpose it’s two-step not only do they harass but they also interfere with the operations of the school so that’s the difference between this legislation and the regular harassment legislation.**”

Mr. Suzuki fails to note that the HODOE has recourse to those issues:

- Hawai’i Procedural Safeguards

(<https://www.hawaiipublicschools.org/DOE%20Forms/Special%20Education/Procedural%20Safeguards/ProceduralSafeguards.pdf>)

- IDEA

(§300.300 Parental consent; §300.322 Parent participation)

- Current Harassment Law

(§711-1106 Harassment - <https://www.capitol.hawaii.gov/hrs/isysquery/2223d9fc-792f-4b93-a014-8f501f73aec0/1/doc/#hit1>)

This bill is unnecessary.

The issues presented by Mr. Suzuki unfounded. The DOE has processes when parents are unresponsive.

The Hawai'i Procedural Safeguards provides guidance to the Department on how to address parents that are "unresponsive":

***Pg. 4** – "The Department must make **reasonable efforts** to obtain your informed consent before providing special education and related services to your child for the first time."*

Pg. 4-5 - Documentation of reasonable efforts to obtain parental consent

*"Your school must maintain documentation of **reasonable efforts** to obtain your consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the Department's attempts in these areas, such as:*

- 1. Detailed records of telephone calls made or attempted and the results of those calls;*
- 2. Copies of correspondence sent to you and any responses received; **and***
- 3. Detailed records of visits made to your home or place of employment and the results of those visits."*

This bill is unnecessary.

The issues presented by Mr. Suzuki unfounded. The IDEA provides processes.

The IDEA provides that guidance as well:

§300.300 Parental consent.

(b) Parental consent for services.

(1) A public agency that is responsible for making FAPE available to a child with a disability **must obtain informed consent from the parent of the child before the initial provision of special education and related services** to the child.

(2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

(3) If the parent of a child **fails to respond or refuses to consent to services** under paragraph (b)(1) of this section, the public agency **may not** use the procedures in subpart E of this part (including the mediation procedures under §300.506 or the **due process procedures** under §§300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.

(4) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency—

(i) Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; and

(ii) Is not required to convene an IEP Team meeting or develop an IEP under §§300.320 and 300.324 for the child for the special education and related services for which the public agency requests such consent.

This bill is unnecessary.

The issues presented by Mr. Suzuki unfounded. Hawai'i has Harassment law in place.

§711-1106 Harassment. (1) A person commits the offense of harassment if, with intent to harass, annoy, or alarm any other person, that person:

- (a) *Strikes, shoves, kicks, or otherwise touches another person in an offensive manner or subjects the other person to offensive physical contact;*
- (b) *Insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response or that would cause the other person to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another;*
- (c) *Repeatedly makes telephone calls, facsimile transmissions, or any form of electronic communication as defined in section 711-1111(2), including electronic mail transmissions, without purpose of legitimate communication;*
- (d) *Repeatedly makes a communication anonymously or at an extremely inconvenient hour;*
- (e) *Repeatedly makes communications, after being advised by the person to whom the communication is directed that further communication is unwelcome; or*
- (f) *Makes a communication using offensively coarse language that would cause the recipient to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another.*

(2) Harassment is a petty misdemeanor. [L 1972, c 9, pt of §1; am L 1973, c 136, §9(b); am L 1992, c 292, §4; am L 1996, c 245, §2; am L 2009, c 90, §1]

Commentary on the law:

Act 292, Session Laws 1992, amended this section to strengthen the laws against harassment by providing greater protection to victims of harassment while at the same time preserving the rights of citizens to engage in political expression and ordinary communication. Conference Committee Report No. 57

Also provides Case law with examples and non-examples of harassment.

This bill is unnecessary.

State laws can strengthen but not conflict with Federal laws.

This bill conflicts with the IDEA:

§300.322 Parent participation.

- (a) **Public agency responsibility - general.** Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including-
 - (1) *Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and*
 - (2) *Scheduling the meeting at a mutually agreed on time and place.*

House Representatives Concerns

House Representatives raised many concerns:

- Rep. Scot Matayoshi – highlighted the issue that the AG and Prosecutors were not prosecuting current claims and diligently pursuing issues as the current harassment laws are sufficient.
- Rep. Gene Ward – called for data/ numbers, and case data when a Government department was attempting to codify a new state law rather than anecdote about a few cases. All representatives affirmed a request for data from Mr. Hayashi.
- Rep. Ward – also pointed out that the highest correlation between student achievement is parent involvement and this bill would drive a wedge between parents and schools.

Parent Concerns

- Parents are the only advocate for their child.
- Advocacy best practice is to send one letter for each concern.
- Advocating in this system is emotional – parents are experiencing acceptance, grieving, frustration, guilty, and more.
- Dispute Resolution is not available to all families.
- This bill is targeting minority groups and demographics who already suffer from disproportionality, are underserved, and discriminated against.

3/8/2022	H	Passed Third Reading as amended in HD 2 with Representative(s) Branco, Kitagawa, Matayoshi, Okimoto voting aye with reservations; Representative(s) Kapela, D. Kobayashi, Kong, Matsumoto, McDermott, McKelvey, Ward voting no (7) and none excused (0). Transmitted to Senate.
3/10/2022	S	Received from House (Hse. Com. No. 323).
3/10/2022	S	Passed First Reading.

THE BILL PASSED THE HOUSE AND CROSSED OVER TO THE SENATE – 7 REPRESENTATIVES VOTED NO.

THE BILL WILL BE HEARD IN THE SENATE – MOST LIKELY IN THE EDU AND JDU COMMITTEES.

ENGAGEMENT TO ADDRESS THIS BILL IS NECESSARY TO EXPLAIN THE CONCERNS ASSOCIATED WITH THE TARGETING OF SPECIAL NEEDS PARENTS BY THE INTRODUCTION OF THIS BILL.

You can find updates on the bill, testimony and recorded hearings here - https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2125&year=2022

Next steps:

- Strongly agree that teacher/educator safety is important, and action taken by HIDOE on their behalf – but not through this bill.
 - *The Department should enforce the current harassment laws and train Administrators and Districts to ensure current laws are being utilized including but not limited to conflict resolution and addressing parent concerns.*
 - *Strengthening and supporting parent-school relationships is needed.*
 - *Parent frustration does not occur in a vacuum and IDEA implementation needs oversight. Dispute Resolution is not available to all.*
- Oppose this bill as it is unnecessary:
 - *This bill is **punitive** to **discriminatory** to the advocacy of special needs parents*
 - *The purpose and intent of this bill **conflicts with parent rights** under IDEA/federal law*
 - *Targets **minority and disadvantaged** families*
 - *Ruins the parent-school relationship (indicator for student success)*
 - *HIDOE can address the issues raised in testimony by guidelines set forth in current state and federal law*
 - *It is **duplicative** of current harassment law*
 - *It is **ambiguous and subjectively** interpreted*
 - *Does not identify **who will enforce** or adjudicate “harassment”*
- HIDOE should make public the data that warrants the introduction of this bill.