

1 **BULLYING AND HAZING AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Luz Robles**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions regarding bullying and hazing of school employees and
10 students.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends the definitions of bullying and hazing;
- 14 ▶ requires a local school board or charter school governing board to update the school
15 board's policies regarding bullying, cyber-bullying, hazing, and retaliation by
16 September 1, 2013; and
- 17 ▶ makes technical and conforming amendments.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **53A-11a-102**, as last amended by Laws of Utah 2011, Chapter 235

25 **53A-11a-201**, as last amended by Laws of Utah 2011, Chapter 235

26 **53A-11a-202**, as last amended by Laws of Utah 2011, Chapter 235

27 **53A-11a-301**, as last amended by Laws of Utah 2011, Chapter 235



28 **53A-11a-302**, as last amended by Laws of Utah 2011, Chapter 235
 29 **53A-11a-401**, as last amended by Laws of Utah 2011, Chapter 235
 30 **53A-11a-402**, as last amended by Laws of Utah 2011, Chapter 235



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **53A-11a-102** is amended to read:

34 **53A-11a-102. Definitions.**

35 ~~[As used in this chapter:]~~

36 ~~[(1) (a) "Bullying" means intentionally or knowingly committing an act that:]~~

37 ~~[(i) (A) endangers the physical health or safety of a school employee or student;]~~

38 ~~[(B) involves any brutality of a physical nature such as whipping, beating, branding,~~
39 ~~calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or~~
40 ~~exposure to the elements;]~~

41 ~~[(C) involves consumption of any food, liquor, drug, or other substance;]~~

42 ~~[(D) involves other physical activity that endangers the physical health and safety of a~~
43 ~~school employee or student; or]~~

44 ~~[(E) involves physically obstructing a school employee's or student's freedom to move;~~
45 ~~and]~~

46 ~~[(ii) is done for the purpose of placing a school employee or student in fear of:]~~

47 ~~[(A) physical harm to the school employee or student; or]~~

48 ~~[(B) harm to property of the school employee or student.]~~

49 ~~[(b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of~~
50 ~~whether the person against whom the conduct is committed directed, consented to, or~~
51 ~~acquiesced in, the conduct.]~~

52 (1) "Bullying" means intentionally committing a written, verbal, or physical act against
53 another school employee or student that a reasonable person under the circumstances should
54 know will have the effect of:

55 (a) causing physical or emotional harm to the school employee or student or damage to
56 the school employee's or student's property;

57 (b) placing the school employee or student in reasonable fear of:

58 (i) harm to the school employee's or student's physical or emotional well-being; or

59 (ii) damage to the school employee's or student's property;
 60 (c) creating a hostile, threatening, humiliating, or abusive educational environment due

61 to:

62 (i) the pervasiveness or persistence of actions; or

63 (ii) a power differential between the bully and the target; or

64 (d) interfering with a student having a safe school environment that is necessary to
 65 facilitate educational performance, opportunities, or benefits.

66 (2) "Communication" means the conveyance of a message, whether verbal, written, or
 67 electronic.

68 (3) "Cyber-bullying" means using the Internet, a cell phone, or another device to send
 69 or post text, video, or an image with the intent or knowledge, or with reckless disregard, that
 70 the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether
 71 the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the
 72 electronic communication.

73 [~~(4) "Harassment" means repeatedly communicating to another individual, in an~~
 74 ~~objectively demeaning or disparaging manner, statements that contribute to a hostile learning~~
 75 ~~or work environment for the individual.]~~

76 [~~(5)~~ (4) (a) "Hazing" means intentionally [~~or~~], knowingly, or recklessly committing an
 77 act or causing another person to commit an act that:

78 (i) (A) endangers the mental or physical health or safety of a school employee or
 79 student;

80 (B) involves any brutality of a physical nature such as whipping, beating, branding,
 81 calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or
 82 exposure to the elements;

83 (C) involves consumption of any food, [~~liquor~~] alcoholic product, drug, or other
 84 substance[~~;~~ ~~(D) involves~~] or other physical activity that endangers the physical health and
 85 safety of a school employee or student; or

86 [~~(E)~~] (D) involves [~~physically obstructing a school employee's or student's freedom to~~
 87 ~~move~~] any activity that would subject the individual to extreme mental stress, such as sleep
 88 deprivation, extended isolation from social contact, or conduct that subjects another to extreme
 89 embarrassment, shame, or humiliation; and

90 (ii) (A) is done for the purpose of initiation [~~or~~], admission into, affiliation with,
91 holding office in, or as a condition for[;] membership [~~or acceptance, or continued membership~~
92 ~~or acceptance,~~] in any school or school sponsored team, organization, program, or event; or

93 (B) if the person committing the act against a school employee or student knew that the
94 school employee or student is a member of, or candidate for, membership with a school, or
95 school sponsored team, organization, program, or event to which the person committing the act
96 belongs to or participates in.

97 (b) The conduct described in Subsection [~~(5)~~] (4)(a) constitutes hazing, regardless of
98 whether the person against whom the conduct is committed directed, consented to, or
99 acquiesced in, the conduct.

100 [~~(6)~~] (5) "Policy" means a bullying and hazing policy described in Section
101 53A-11a-301.

102 [~~(7)~~] (6) "Retaliate" means an act or communication intended:

103 (a) as retribution against a person for reporting bullying or hazing; or

104 (b) to improperly influence the investigation of, or the response to, a report of bullying
105 or hazing.

106 [~~(8)~~] (7) "School" means any public elementary or secondary school or charter school.

107 [~~(9)~~] (8) "School board" means:

108 (a) a local school board; or

109 (b) a local charter board.

110 [~~(10)~~] (9) "School employee" means:

111 (a) school teachers;

112 (b) school staff;

113 (c) school administrators; and

114 (d) all others employed, directly or indirectly, by the school, school board, or school
115 district.

116 Section 2. Section **53A-11a-201** is amended to read:

117 **53A-11a-201. Bullying, cyber-bullying, and hazing prohibited.**

118 (1) No school employee or student may engage in bullying [~~or harassing~~] a school
119 employee or student:

120 (a) on school property;

- 121 (b) at a school related or sponsored event;
- 122 (c) on a school bus;
- 123 (d) at a school bus stop; or
- 124 (e) while the school employee or student is traveling to or from a location or event
- 125 described in Subsections (1)(a) through (d).

126 (2) No school employee or student may engage in hazing or cyber-bullying a school
127 employee or student at any time or in any location.

128 Section 3. Section **53A-11a-202** is amended to read:

129 **53A-11a-202. Retaliation and making false allegation prohibited.**

130 (1) No school employee or student may engage in retaliation against:

- 131 (a) a school employee;
- 132 (b) a student; or
- 133 (c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying,
134 [~~harassment,~~] hazing, or retaliation.

135 (2) No school employee or student may make a false allegation of bullying,
136 cyber-bullying, [~~harassment,~~] hazing, or retaliation against a school employee or student.

137 Section 4. Section **53A-11a-301** is amended to read:

138 **53A-11a-301. Bullying, cyber-bullying, hazing, and retaliation policy.**

139 (1) On or before September 1, [~~2012~~] 2013, each school board shall [~~adopt a~~] update
140 the school board's bullying, cyber-bullying, [~~harassment, and~~] hazing, and retaliation policy
141 consistent with this chapter.

142 (2) The policy shall:

143 (a) be developed only with input from:

- 144 (i) students;
- 145 (ii) parents;
- 146 (iii) teachers;
- 147 (iv) school administrators;
- 148 (v) school staff; or
- 149 (vi) local law enforcement agencies; and

150 (b) provide protection to a student, regardless of the student's legal status.

151 (3) The policy shall include the following components:

152 (a) definitions of bullying, cyber-bullying, [~~harassment,~~] and hazing that are consistent
153 with this chapter;

154 (b) language prohibiting bullying, cyber-bullying, [~~harassment,~~] and hazing;

155 (c) language prohibiting retaliation against an individual who reports conduct that is
156 prohibited under this chapter; and

157 (d) language prohibiting making a false report of bullying, cyber-bullying,
158 [~~harassment,~~] hazing, or retaliation.

159 (4) A copy of the policy shall be included in student conduct handbooks and employee
160 handbooks.

161 (5) A policy may not permit formal disciplinary action that is based solely on an
162 anonymous report of bullying, cyber-bullying, [~~harassment,~~] hazing, or retaliation.

163 (6) Nothing in this chapter is intended to infringe upon the right of a school employee
164 or student to exercise their right of free speech.

165 Section 5. Section **53A-11a-302** is amended to read:

166 **53A-11a-302. Model policy and State Board of Education duties.**

167 On or before September 1, [~~2011~~] 2013, the State Board of Education shall:

168 (1) develop [~~a~~] an updated model policy on bullying, cyber-bullying, [~~harassment,~~]
169 hazing, and retaliation; and

170 (2) post the model policy described in Subsection (1) on the State Board of Education's
171 website.

172 Section 6. Section **53A-11a-401** is amended to read:

173 **53A-11a-401. Training, education, and prevention.**

174 (1) A school board shall include in the training of a school employee, training
175 regarding bullying, cyber-bullying, [~~harassment,~~] hazing, and retaliation.

176 (2) To the extent that state or federal funding is available for this purpose, school
177 boards are encouraged to implement programs or initiatives, in addition to the training
178 described in Subsection (1), to provide for training and education regarding, and the prevention
179 of, bullying, hazing, and retaliation.

180 (3) The programs or initiatives described in Subsection (2) may involve:

181 (a) the establishment of a bullying task force; or

182 (b) the involvement of school employees, students, or law enforcement.

183 Section 7. Section **53A-11a-402** is amended to read:

184 **53A-11a-402. Other forms of legal redress.**

185 (1) Nothing in this chapter prohibits a victim of bullying, cyber-bullying, [~~harassment,~~
186 hazing, or retaliation from seeking legal redress under any other provisions of civil or criminal
187 law.

188 (2) This section does not create or alter tort liability.

Legislative Review Note
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Office of Legislative Research and General Counsel