

Representative Jackie Biskupski proposes the following substitute bill:

STUDENT CLUBS AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Tilton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the State System of Public Education Code's regulation of curricular and noncurricular clubs.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides requirements and procedures for the authorization of curricular and noncurricular clubs;
- ▶ regulates the use of school buildings by authorized clubs;
- ▶ provides for faculty oversight of authorized clubs;
- ▶ provides requirements for club membership, including parental consent;
- ▶ requires the investigation of complaints, provides school options for violations, and establishes appeals procedures;
- ▶ allows additional rulemaking by the State Board of Education and provides additional rulemaking authority for local school governing boards;
- ▶ provides severability; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53A-3-420**, as enacted by Chapter 19, Laws of Utah 1999

32 **53A-13-101.2**, as last amended by Chapter 10, Laws of Utah 1996, Second Special
33 Session

34 ENACTS:

35 **53A-11-1201**, Utah Code Annotated 1953

36 **53A-11-1202**, Utah Code Annotated 1953

37 **53A-11-1203**, Utah Code Annotated 1953

38 **53A-11-1204**, Utah Code Annotated 1953

39 **53A-11-1205**, Utah Code Annotated 1953

40 **53A-11-1206**, Utah Code Annotated 1953

41 **53A-11-1207**, Utah Code Annotated 1953

42 **53A-11-1208**, Utah Code Annotated 1953

43 **53A-11-1209**, Utah Code Annotated 1953

44 **53A-11-1210**, Utah Code Annotated 1953

45 **53A-11-1211**, Utah Code Annotated 1953

46 **53A-11-1212**, Utah Code Annotated 1953

47 **53A-11-1213**, Utah Code Annotated 1953

48 **53A-11-1214**, Utah Code Annotated 1953

49 REPEALS:

50 **53A-3-419**, as enacted by Chapter 10, Laws of Utah 1996, Second Special Session

51

52 *Be it enacted by the Legislature of the state of Utah:*

53 Section 1. Section **53A-3-420** is amended to read:

54 **53A-3-420. Activity disclosure statements.**

55 (1) A local school board shall require the development of activity disclosure statements
56 for each school-sponsored group[~~-club,~~] or program which involves students and faculty in

57 grades 9 through 12 in contests, performances, events, or other activities that require them to
58 miss normal class time or takes place outside regular school time.

59 (2) The activity disclosure statements shall be disseminated to the students desiring
60 involvement in the specific activity or to the students' parents or legal guardians or to both
61 students and their parents.

62 (3) An activity disclosure statement shall contain the following information:

63 (a) the specific name of the [~~club,~~] team, group, or activity;

64 (b) the maximum number of students involved;

65 (c) whether or not tryouts are used to select students, specifying date and time
66 requirements for tryouts, if applicable;

67 (d) beginning and ending dates of the activity;

68 (e) a tentative schedule of the events, performances, games, or other activities with
69 dates, times, and places specified if available;

70 (f) if applicable, designation of any nonseason events or activities, including an
71 indication of the status, required, expected, suggested, or optional, with the dates, times, and
72 places specified;

73 (g) personal costs associated with the activity;

74 (h) the name of the school employee responsible for the activity; and

75 (i) any additional information considered important for the students and parents to
76 know.

77 Section 2. Section **53A-11-1201** is enacted to read:

78 **Part 12. Student Clubs Act**

79 **53A-11-1201. Title.**

80 This part is known as the "Student Clubs Act."

81 Section 3. Section **53A-11-1202** is enacted to read:

82 **53A-11-1202. Definitions.**

83 As used in this part:

84 (1) "Bigotry" means action or advocacy of imminent action involving:

85 (a) the harassment or denigration of a person or entity; or

86 (b) any intent to cause a person not to freely enjoy or exercise any right secured by the
87 constitution or laws of the United States or the state, except that an evaluation or prohibition

88 may not be made of the truth or falsity of any religious belief or expression of conscience
89 unless the means of expression or conduct arising therefrom violates the standards of conduct
90 outlined in this section, Section 53A-13-101.3, or 20 U.S.C. Section 4071(f).

91 (2) "Club" means any student organization that meets during noninstructional time.

92 (3) "Conscience" means a standard based upon learned experiences, a personal
93 philosophy or system of belief, religious teachings or doctrine, an absolute or external sense of
94 right and wrong which is felt on an individual basis, a belief in an external absolute, or any
95 combination of the foregoing.

96 (4) "Curricular club" means a club that is school sponsored and that may receive
97 leadership, direction, and support from the school or school district beyond providing a
98 meeting place during noninstructional time. An elementary school curricular club means a club
99 that is organized and directed by school sponsors at the elementary school. A secondary school
100 curricular club means a club:

101 (a) whose subject matter is taught or will soon be taught in a regular course;

102 (b) whose subject matter concerns the body of courses as a whole;

103 (c) in which participation is required for a particular course; or

104 (d) in which participation results in academic credit.

105 (5) (a) "Discretionary time" means school-related time for students that is not
106 instructional time.

107 (b) "Discretionary time" includes free time before and after school, during lunch and
108 between classes or on buses, and private time before athletic and other events or activities.

109 (6) (a) "Encourage criminal or delinquent conduct" means action or advocacy of
110 imminent action that violates any law or administrative rule.

111 (b) "Encourage criminal or delinquent conduct" does not include discussions
112 concerning changing of laws or rules, or actions taken through lawfully established channels to
113 effectuate such change.

114 (7) (a) "Instructional time" means time during which a school is responsible for a
115 student and the student is required or expected to be actively engaged in a learning activity.

116 (b) "Instructional time" includes instructional activities in the classroom or study hall
117 during regularly scheduled hours, required activities outside the classroom, and counseling,
118 private conferences, or tutoring provided by school employees or volunteers acting in their

119 official capacities during or outside of regular school hours.

120 (8) "Involve human sexuality" means:

121 (a) presenting information in violation of laws governing sex education, including
122 Sections 53A-13-101 and 53A-13-302;

123 (b) advocating or engaging in sexual activity outside of legally recognized marriage or
124 forbidden by state law; or

125 (c) advocating or encouraging the use of contraceptive practices, devices, or
126 substances, regardless of whether the use is for purposes of contraception or personal health.

127 (9) "Limited open forum" means a forum created by a district for student expression
128 within the constraints of Subsection 53A-13-101.3(2)(b).

129 (10) "Noncurricular club" is a student initiated group that may be authorized and
130 allowed school building use during noninstructional time in secondary schools by a school and
131 school governing board in accordance with the provisions of this part. A noncurricular club's
132 meetings, ideas, and activities are not sponsored or endorsed in any way by a school governing
133 board, the school, or by school or school district employees.

134 (11) "Noninstructional time" means time set aside by a school before instructional time
135 begins or after instructional time ends, including discretionary time.

136 (12) "Religious club" means a club designated in its application as either being
137 religiously based or based on expression or conduct mandated by conscience.

138 (13) "School" means a public school, including a charter school.

139 (14) "School building use" means access to a school facility or premises, including
140 access to a limited open forum.

141 (15) "School governing board" means a local school board or charter school board.

142 Section 4. Section **53A-11-1203** is enacted to read:

143 **53A-11-1203. Student clubs -- Limited open forum -- Authorization.**

144 (1) (a) A school may establish and maintain a limited open forum for student clubs
145 pursuant to the provisions of this part, State Board of Education rules, and school governing
146 board policies.

147 (b) Notwithstanding the provisions under Subsection (1)(a), a school retains the right to
148 create a closed forum at any time by allowing curricular clubs only.

149 (2) (a) A school shall review applications for authorization of clubs on a case-by-case

150 basis.

151 (b) Before granting an authorization, the school shall find:

152 (i) that the proposed club meets this part's respective requirements of a curricular club
153 or a noncurricular club; and

154 (ii) that the proposed club's purpose and activities comply with this part.

155 (c) Before granting an authorization, a school may request additional information from
156 the faculty sponsor, from students proposing the club, or from its school governing board, if
157 desired.

158 (3) A school shall grant authorization and school building use to curricular and
159 noncurricular clubs whose applications are found to meet the requirements of this part, rules of
160 the State Board of Education, and policies of the school governing board and shall limit or
161 deny authorization or school building use to proposed clubs that do not meet the requirements
162 of this part, rules of the State Board of Education, and policies of the school governing board.

163 Section 5. Section **53A-11-1204** is enacted to read:

164 **53A-11-1204. Curricular clubs -- Authorization.**

165 (1) Faculty members or students proposing a curricular club shall submit written
166 application for authorization on a form approved by the school governing board no later than
167 October 15 of the year of the club's inception.

168 (2) A school governing board may exempt a club whose membership is determined by
169 student body election or a club that is governed by an association that regulates interscholastic
170 activities from the authorization requirements under this section.

171 (3) An application for authorization of a curricular club shall include:

172 (a) the recommended club name;

173 (b) a statement of the club's purpose, goals, and activities;

174 (c) a statement of the club's categorization, which shall be included in the parental
175 consent required under Section 53A-11-1210, indicating all of the following that may apply:

176 (i) athletic;

177 (ii) business/economic;

178 (iii) agriculture;

179 (iv) art/music/performance;

180 (v) science;

- 181 (vi) gaming;
- 182 (vii) religious;
- 183 (viii) community service/social justice; and
- 184 (ix) other.
- 185 (4) A school shall approve the name of a curricular club consistent with the club's
- 186 purposes and its school sponsorship.
- 187 (5) (a) A school shall determine curriculum relatedness by strictly applying this part's
- 188 definition of curricular club to the club application.
- 189 (b) If the school finds that the proposed club is a curricular club, the school shall
- 190 continue to review the application as an application for authorization of a curricular club.
- 191 (c) If the school finds that the proposed club is a noncurricular club, the school may:
- 192 (i) return the application to the faculty member or students proposing the club for
- 193 amendment; or
- 194 (ii) review the application as an application for authorization of a noncurricular club.
- 195 (6) (a) Only curricular clubs may be authorized for elementary schools.
- 196 (b) A school governing body may limit, or permit a secondary school to limit, the
- 197 authorization of clubs at the secondary school to only curricular clubs.
- 198 Section 6. Section **53A-11-1205** is enacted to read:
- 199 **53A-11-1205. Noncurricular clubs -- Annual authorization.**
- 200 (1) A noncurricular club shall have a minimum of three members.
- 201 (2) Students proposing a noncurricular club shall submit a written application for
- 202 authorization on a form approved by the school governing board no later than October 15 of
- 203 each year.
- 204 (3) An application for authorization of a noncurricular club shall include:
- 205 (a) the recommended club name;
- 206 (b) a statement of the club's purpose, goals, and activities;
- 207 (c) a statement of the club's categorization, which shall be included in the parental
- 208 consent required under Section 53A-11-1210, indicating all of the following that may apply:
- 209 (i) athletic;
- 210 (ii) business/economic;
- 211 (iii) agriculture;

- 212 (iv) art/music/performance;
- 213 (v) science;
- 214 (vi) gaming;
- 215 (vii) religious;
- 216 (viii) community service/social justice; and
- 217 (ix) other;
- 218 (e) a statement that the club will comply with the provisions of this part and all other
- 219 applicable laws, rules, or policies.

220 (4) A school shall approve the name of a noncurricular club consistent with the club's
221 purposes.

222 Section 7. Section **53A-11-1206** is enacted to read:

223 **53A-11-1206. Clubs -- Limitations and denials.**

224 (1) A school may limit or deny authorization or school building use to a club or require
225 changes prior to granting authorization or school building use:

226 (a) as the school determines it to be necessary to:

227 (i) protect the physical, emotional, psychological, or moral well-being of students and
228 faculty;

229 (ii) maintain order and discipline on school premises; or

230 (iii) prevent a material and substantial interference with the orderly conduct of a
231 school's educational activities; or

232 (b) whose proposed charter and proposed activities indicate students or advisors in club
233 related activities would as a substantial, material, or significant part of their conduct or means
234 of expression:

235 (i) encourage criminal or delinquent conduct;

236 (ii) promote bigotry;

237 (iii) involve human sexuality; or

238 (iv) involve any effort to engage in or conduct mental health therapy, counseling, or
239 psychological services for which a license would be required under state law.

240 (2) A school governing board has the authority to determine whether any club meets
241 the criteria of Subsection (1).

242 (3) If a school or school governing board limits or denies authorization to a club, the

243 school shall provide, in writing, to the applicant the factual or legal basis for the limitation or
244 denial.

245 (4) A student's spontaneous expression of sentiments or opinions otherwise identified
246 in Subsection 53A-13-302(1) is not prohibited.

247 Section 8. Section **53A-11-1207** is enacted to read:

248 **53A-11-1207. Faculty oversight of authorized clubs.**

249 (1) (a) A club shall select a faculty member for each authorized curricular and
250 noncurricular club to provide oversight consistent with this part and the needs of the school to
251 ensure that the methods of expression, religious practices, or other conduct of the students or
252 advisors involved do not:

253 (i) unreasonably interfere with the ability of school officials to maintain order and
254 discipline;

255 (ii) unreasonably endanger or threaten the well-being of persons or property;

256 (iii) violate concepts of civility or propriety appropriate to a school setting; or

257 (iv) violate applicable laws, rules, regulations, and policies.

258 (b) If a club is unable to find a faculty member for the oversight described in
259 Subsection (1)(a), the school shall assign a faculty member to provide the oversight.

260 (2) (a) A school employee assigned to provide oversight to a club may not be required
261 to do so if the assignment would violate the conscience of the employee.

262 (b) The decision of the employee in accordance with Subsection (2)(a) is not subject to
263 review nor may it be used as a basis for any negative evaluation of the employee.

264 (3) (a) A faculty member shall serve as a sponsor of a curricular club.

265 (b) A faculty sponsor shall organize and direct the purpose and activities of a curricular
266 club.

267 (4) (a) A faculty member shall serve as a supervisor for an authorized noncurricular
268 club.

269 (b) A faculty supervisor shall provide oversight to ensure compliance with the
270 approved club purposes and with the provisions of this part and other applicable laws, rules,
271 and policies.

272 (c) The oversight of a faculty supervisor does not constitute school sponsorship of the
273 club.

274 (d) A faculty supervisor of a religious club may not participate in the activities of the
275 religious club, except to perform the supervisory role required by this section.

276 Section 9. Section **53A-11-1208** is enacted to read:

277 **53A-11-1208. Use of school facilities by clubs.**

278 (1) A school shall determine and assign school building use for curricular and
279 noncurricular clubs consistent with the needs of the school.

280 (2) The following rules apply to curricular clubs:

281 (a) in assigning school building use, the administrator may give priority to curricular
282 clubs over noncurricular clubs; and

283 (b) the school may provide financial or other support to curricular clubs.

284 (3) The following rules apply to noncurricular clubs:

285 (a) a preference or priority may not be given among noncurricular clubs;

286 (b) (i) a school shall only provide the space for noncurricular club meetings; and

287 (ii) a school may not spend public funds for noncurricular clubs, except as required to
288 implement the provisions of this part, including providing space and faculty oversight for
289 noncurricular clubs;

290 (c) a school shall establish the noninstructional times during which noncurricular clubs
291 may meet;

292 (d) a school may establish the places that noncurricular clubs may meet;

293 (e) a school may set the number of hours noncurricular clubs may meet per month,
294 provided that all noncurricular clubs shall be treated equally; and

295 (f) a school shall determine what access noncurricular clubs shall be given to the
296 school newspaper, yearbook, bulletin boards, or public address system, provided that all
297 noncurricular clubs shall be treated equally.

298 Section 10. Section **53A-11-1209** is enacted to read:

299 **53A-11-1209. Club membership.**

300 (1) A school shall require written parental or guardian consent for student participation
301 in all curricular and noncurricular clubs at the school.

302 (2) Membership in curricular clubs is governed by the following rules:

303 (a) student membership in a curricular club is voluntary;

304 (b) (i) membership may be limited to students who are currently attending the

305 sponsoring school or school district; and

306 (ii) members who attend a school other than the sponsoring school shall have, in
307 addition to the consent required under Section 53A-11-1210, specific parental or guardian
308 permission for membership in a curricular club at another school;

309 (c) (i) clubs may require that prospective members try out based on objective criteria
310 outlined in the application materials; and

311 (ii) try-outs may not require activities that violate the provisions of this part and other
312 applicable laws, rules, and policies; and

313 (d) other rules as determined by the State Board of Education, school district, or
314 school.

315 (3) Membership in noncurricular clubs is governed by the following rules:

316 (a) student membership in a noncurricular club is voluntary;

317 (b) membership shall be limited to students who are currently attending the school;

318 (c) (i) clubs may require that prospective members try out based on objective criteria
319 outlined in the application materials; and

320 (ii) try-outs may not require activities that violate the provisions of this part and other
321 applicable laws, rules, and policies;

322 (d) (i) attendance or participation in club meetings or activities is limited to members,
323 except that nonschool persons may attend on occasion to make presentations if approved in
324 advance by a school administrator;

325 (ii) nonschool persons may not direct, conduct, control, or regularly attend meetings or
326 activities of clubs; and

327 (iii) a copy of any written or other media materials to be presented at a club meeting by
328 a nonschool person shall be delivered to a school administrator at least seven days before the
329 club meeting and, if requested, a student's parent or legal guardian shall have an opportunity to
330 review those materials; and

331 (e) other rules as determined by the State Board of Education, school district, or
332 school.

333 Section 11. Section **53A-11-1210** is enacted to read:

334 **53A-11-1210. Parental consent.**

335 (1) A school shall require written parental or guardian consent for student participation

336 in all curricular and noncurricular clubs at the school.

337 (2) The consent described in Subsection (1) shall include an activity disclosure
338 statement containing the following information:

339 (a) the specific name of the club;

340 (b) a statement of the club's purpose, goals, and activities;

341 (c) a statement of the club's categorization, which shall be obtained from the
342 application for authorization of a club in accordance with the provisions of Section
343 53A-11-1204 or 53A-11-1205, indicating all of the following that may apply:

344 (i) athletic;

345 (ii) business/economic;

346 (iii) agriculture;

347 (iv) art/music/performance;

348 (v) science;

349 (vi) gaming;

350 (vii) religious;

351 (viii) community service/social justice;

352 (ix) other;

353 (d) beginning and ending dates of the activity;

354 (e) personal costs associated with the club, if any;

355 (f) the name of the school employee responsible for the club; and

356 (g) any additional information considered important for the students and parents to
357 know.

358 (3) All completed parental consent forms shall be filed by the club's faculty sponsor,
359 supervisor, or monitor with the school's principal, the chief administrative officer of a charter
360 school, or their designee.

361 Section 12. Section **53A-11-1211** is enacted to read:

362 **53A-11-1211. Violations -- Investigations -- School responses.**

363 (1) A school shall investigate any report or allegation that an authorized curricular or
364 noncurricular club is:

365 (a) participating in activities beyond the scope of its purpose; or

366 (b) in violation of a provision of this part or another applicable law, rule, regulation, or

367 policy.

368 (2) After meeting with the faculty sponsor, faculty supervisor, or faculty monitor, the
369 students involved, and the person making the report or allegation, if a violation is substantiated,
370 the school may do any of the following:

371 (a) allow the club's original purposes to be modified to include the activities if they are
372 in compliance with the provisions of this part and other applicable laws, rules, regulations, or
373 policies;

374 (b) instruct the faculty sponsor, supervisor, or monitor not to allow similar violations in
375 the future;

376 (c) limit or suspend the club's authorization or school building use pending further
377 corrective action as determined by the school; or

378 (d) terminate the club's authorization and dissolve the club.

379 (3) Any limitation on expression, practice, or conduct of any student, advisor, or guest
380 in a meeting of a curricular or noncurricular club, or limitation on school building use, shall be
381 by the least restrictive means necessary to satisfy the school's interests as identified in this part.

382 (4) A club that has been terminated in accordance with Subsection (2)(d) may not
383 reapply for authorization until the following school year.

384 (5) A student who makes a frivolous allegation or report under this section is subject to
385 school discipline.

386 Section 13. Section **53A-11-1212** is enacted to read:

387 **53A-11-1212. Appeals -- Procedures.**

388 (1) (a) Each completed application or complaint shall be approved, denied, or
389 investigated by the school within five school days.

390 (b) If an application or complaint is denied, written reasons for the denial or results of
391 the investigation shall be stated and, if appropriate, suggested corrections shall be made to
392 remedy the deficiency.

393 (c) Each club that is denied school building use shall be informed at the time of the
394 denial of the factual or legal basis for the denial, and, if appropriate, how the basis for the
395 denial could be corrected.

396 (2) (a) If denied, suspended, or terminated, a club, student desirous of participating or
397 speaking, or a complaining parent or guardian, has ten school days from the date of the denial.

398 suspension, or termination to file a written appeal from the denial, suspension, or termination
399 to a designee authorized by the school governing board.

400 (b) The designee shall issue a determination within five school days from receipt of the
401 appeal, which decision is final and constitutes satisfaction of all administrative remedies unless
402 the time for evaluation is extended by agreement of all parties.

403 (3) A person directly affected by a decision made in accordance with the provisions of
404 this part may appeal the decision by writing to the school governing board or the State Board of
405 Education.

406 Section 14. Section **53A-11-1213** is enacted to read:

407 **53A-11-1213. Rulemaking -- State Board of Education -- School governing**
408 **boards.**

409 The State Board of Education may adopt additional rules and school governing boards
410 may adopt additional rules or policies governing clubs that do not conflict with the provisions
411 of this part.

412 Section 15. Section **53A-11-1214** is enacted to read:

413 **53A-11-1214. Severability.**

414 If any provision of this part or the application of any provision to any person or
415 circumstance, is held invalid, the remainder of this part shall be given effect without the invalid
416 provision or application.

417 Section 16. Section **53A-13-101.2** is amended to read:

418 **53A-13-101.2. Waivers of participation.**

419 (1) If a parent with legal custody or other legal guardian of a student, or a secondary
420 student, determines that the student's participation in a portion of the curriculum or in an
421 activity would require the student to affirm or deny a religious belief or right of conscience, or
422 engage or refrain from engaging in a practice forbidden or required in the exercise of a
423 religious right or right of conscience, the parent, guardian, or student may request:

424 (a) a waiver of the requirement to participate; or

425 (b) a reasonable alternative that requires reasonably equivalent performance by the
426 student of the secular objectives of the curriculum or activity in question.

427 (2) The school shall promptly notify a student's parent or guardian if the student makes
428 a request under Subsection (1).

429 (3) If a request is made under Subsection (1), the school shall:

430 (a) waive the participation requirement;

431 (b) provide a reasonable alternative to the requirement; or

432 (c) notify the requesting party that participation is required.

433 (4) The school shall ensure that the provisions of Subsection 53A-13-101.3(3) are met
434 in connection with any required participation under Subsection (3)(c).

435 (5) A student's academic or citizenship performance may not be penalized by school
436 officials for the exercise of a religious right or right of conscience in accordance with the
437 provisions of this section.

438 ~~[(6) (a) As a condition for participation in a student club or organization that meets on
439 school premises, regardless of the organization's relationship to school curriculum, a local
440 school district may require every student to obtain written permission from either a parent with
441 legal custody or other legal guardian.]~~

442 ~~[(b) If a local school district requires written permission under Subsection (a), that
443 school district shall require written permission for:]~~

444 ~~[(i) every club or organization that meets on school premises in that school district;
445 and]~~

446 ~~[(ii) every student participating in a club or organization described in Subsection (i).]~~

447 ~~[(c) The local school district shall supply the permission form, and all completed forms
448 shall be filed with the school's principal or the principal's designee.]~~

449 Section 17. **Repealer.**

450 This bill repeals:

451 Section **53A-3-419, Limitations regarding access for student clubs and**
452 **organizations.**