

1 **BULLYING AND HAZING**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Carol Spackman Moss**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends Title 53A, State System of Public Education, to enact provisions, and
10 require adoption of school policies, relating to bullying and hazing.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ prohibits bullying, hazing, retaliation for reporting, or assisting in the investigation
15 of, bullying or hazing, and making a false report of bullying or hazing;
- 16 ▶ requires and encourages the reporting of bullying, hazing, or retaliation;
- 17 ▶ provides immunity for the good faith reporting of bullying, hazing, or retaliation;
- 18 ▶ requires local school boards and local charter boards to adopt a policy, on or before
19 September 1, 2008, for reporting and responding to bullying, hazing, or retaliation;
- 20 ▶ describes the minimum requirements for a policy described in the preceding
21 paragraph;
- 22 ▶ requires the State Board of Education to develop, on or before July 1, 2008, a model
23 policy on bullying, hazing, or retaliation; and
- 24 ▶ provides for training and education regarding, and the prevention of, bullying,
25 hazing, or retaliation.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

- 32 **53A-11a-101**, Utah Code Annotated 1953
- 33 **53A-11a-102**, Utah Code Annotated 1953
- 34 **53A-11a-201**, Utah Code Annotated 1953
- 35 **53A-11a-202**, Utah Code Annotated 1953
- 36 **53A-11a-301**, Utah Code Annotated 1953
- 37 **53A-11a-302**, Utah Code Annotated 1953
- 38 **53A-11a-401**, Utah Code Annotated 1953
- 39 **53A-11a-402**, Utah Code Annotated 1953
- 40 **53A-11a-501**, Utah Code Annotated 1953
- 41 **53A-11a-502**, Utah Code Annotated 1953

42

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

44 Section 1. Section **53A-11a-101** is enacted to read:

45 **CHAPTER 11a. BULLYING AND HAZING**

46 **Part 1. General Provisions**

47 **53A-11a-101. Title.**

48 This chapter is known as "Bullying and Hazing."

49 Section 2. Section **53A-11a-102** is enacted to read:

50 **53A-11a-102. Definitions.**

51 As used in this part:

52 (1) (a) "Bullying" means any conduct, course of conduct, or communication made in
53 any manner, including electronic means, by a school employee or student that is:

54 (i) directed to, or relating to, a school employee or student; and

55 (ii) done with the intention of:

56 (A) placing the school employee or student in fear of harm to person or property;

57 (B) harassing, intimidating, threatening, or abusing the school employee or student;

58 (C) demeaning or embarrassing the school employee or student;

59 (D) creating a hostile educational or work environment for the school employee or
60 student; or

61 (E) encouraging, inciting, or coercing others to engage in conduct or communication
62 described in this Subsection (1)(a).

63 (b) A student or school employee is presumed to intend a result described in
64 Subsection (1)(a)(ii) if a reasonable person, under the circumstances, would expect the result.

65 (c) "Bullying" includes:

66 (i) retaliating against a school employee or student for reporting that a school employee
67 or student has engaged in bullying or hazing; or

68 (ii) knowingly making a false report of bullying or hazing.

69 (2) (a) "Hazing" means committing or causing another to commit an act that:

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

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

75 (C) involves consumption of any food, liquor, drug, or other substance;

76 (D) involves other physical activity that endangers the mental or physical health and
77 safety of a school employee or student;

78 (E) involves any activity that would subject a school employee or student to extreme
79 mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that
80 results in embarrassment, shame, or humiliation; or

81 (F) involves cruelty to any animal; and

82 (ii) (A) is done for the purpose of initiation or admission into, affiliation with, holding
83 office in, or as a condition for, membership or acceptance, or continued membership or
84 acceptance, in any school or school sponsored team, organization, program, or event; or

85 (B) if the person committing or causing another to commit the act against a school
86 employee or student knew that the school employee or student is a member of, or candidate for,
87 membership with a school, or school sponsored team, organization, program, or event to which
88 the person committing or causing another to commit the act belongs or participates in, or did
89 belong or participated in, within the preceding two years.

90 (b) The conduct described in Subsection (2)(a) constitutes hazing, regardless of
91 whether the person against whom the conduct is committed directed, consented to, or
92 acquiesced in, the conduct.

93 (3) "Policy" means a bullying and hazing policy described in Section 53A-11a-401.

94 (4) "Retaliate" means an act or communication intended:

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

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

98 (5) "School" means any public elementary or secondary school or charter school.

99 (6) "School board" means:

100 (a) a local school board; or

101 (b) a local charter board.

102 (7) "School employee" means:

103 (a) school teachers;

104 (b) school staff;

105 (c) school administrators;

106 (d) school volunteers;

107 (e) school agents; and

108 (f) all others employed, directly or indirectly, by the school, school board, or school
109 district.

110 Section 3. Section **53A-11a-201** is enacted to read:

111 **Part 2. Prohibitions**

112 **53A-11a-201. Bullying and hazing prohibited.**

113 (1) No school employee or student may engage in bullying a school employee or
114 student:

115 (a) on school property;

116 (b) at a school related or sponsored event;

117 (c) on a school bus;

118 (d) at a school bus stop; or

119 (e) while the school employee or student is traveling to or from a location or event
120 described in Subsections (1)(a) through (d).

121 (2) No school employee or student may engage in hazing a school employee or student
122 at any time or location.

123 Section 4. Section **53A-11a-202** is enacted to read:

124 **53A-11a-202. Retaliation and false reporting prohibited.**

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

126 (a) a school employee;

127 (b) a student; or

128 (c) an investigator or witness for an alleged incident of bullying, hazing, or retaliation.

129 (2) No school employee or student may make a false report of bullying, hazing, or
130 retaliation against a school employee or student.

131 Section 5. Section **53A-11a-301** is enacted to read:

132 **Part 3. Reporting**

133 **53A-11a-301. Reporting of bullying, hazing, or retaliation required.**

134 (1) A school employee who witnesses, or has reliable information regarding, an
135 incident of bullying, hazing, or retaliation shall report the incident and information to the
136 school official designated in the school's policy.

137 (2) A student or parent who witnesses, or has reliable information regarding, an
138 incident of bullying, hazing, or retaliation is encouraged to report the incident and information
139 to the school official designated in the school's policy.

140 Section 6. Section **53A-11a-302** is enacted to read:

141 **53A-11a-302. Immunity for reporting in good faith.**

142 A school employee, student, or parent who reports an incident of, or information
143 relating to, bullying, hazing, or retaliation, is immune from any liability, civil or criminal, that
144 otherwise might result by reason of making the report, if the report is made:

145 (1) promptly;

146 (2) in good faith;

147 (3) to the school official designated in the school's policy; and

148 (4) in accordance with the school's policy.

149 Section 7. Section **53A-11a-401** is enacted to read:

150 **Part 4. School Policy**

151 **53A-11a-401. Bullying and hazing policy.**

152 (1) On or before September 1, 2008, each school board shall adopt a bullying and
153 hazing policy.

154 (2) The policy shall:

155 (a) be developed with input from:

156 (i) students;

157 (ii) parents;

158 (iii) teachers;

159 (iv) school administrators;

160 (v) school staff;

161 (vi) school volunteers;

162 (vii) community representatives; and

163 (viii) local law enforcement agencies;

164 (b) be implemented in an ongoing, consistent, and nondiscriminatory manner;

165 (c) be integrated with existing school discipline policies and violence prevention
166 efforts; and

167 (d) provide protection to students, regardless of a student's legal status.

168 (3) The policy shall, at a minimum, include the following components:

169 (a) the definitions of bullying and hazing described in Section 53A-11a-102;

170 (b) the prohibitions described in Part 2, Prohibitions;

171 (c) a description of the action that may be taken, and consequences or penalties that
172 may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school
173 employee or student for reporting bullying or hazing, which shall include:

174 (i) suspension; or

175 (ii) dissolution of a team, organization, or other group;

176 (d) procedures for protecting:

177 (i) a victim of bullying or hazing from being subjected to further bullying or hazing;

178 and

179 (ii) a school employee or student from retaliation for reporting bullying or hazing;

180 (e) procedures for promptly reporting to law enforcement all acts of bullying, hazing,
181 or retaliation that constitute criminal activity;

182 (f) procedures for promptly investigating and responding to reports of bullying, hazing,

183 or retaliation;

184 (g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;

185 (h) specification of the persons responsible for taking, investigating, and responding to
186 reports of bullying and hazing;

187 (i) a procedure for referring a victim of bullying or hazing to counseling;

188 (j) involving the parents or guardians of a perpetrator or victim of bullying, hazing, or
189 retaliation in the process of responding to, and resolving, conduct prohibited by this chapter;

190 (k) to the extent permitted by federal and state law, including the federal Family
191 Educational and Privacy Rights Act of 1974, as amended, a procedure informing the parents or
192 guardians of a student who is a victim of bullying or hazing of the actions taken against the
193 perpetrators of the bullying or hazing;

194 (l) procedures and plans for publicizing the policy to school employees, students, and
195 parents and guardians of students; and

196 (m) procedures and plans for training school employees and students in recognizing,
197 preventing, and reporting bullying, hazing, or retaliation.

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

200 (5) A policy may not permit formal disciplinary action that is based solely on an
201 anonymous report of bullying, hazing, or retaliation.

202 (6) Bullying, hazing, or retaliation, that is done or initiated, in whole or in part, by
203 means of electronic communication or an electronic device, shall be a violation of the school
204 policy, regardless of the time or location of:

205 (a) the communication; or

206 (b) the use of the electronic device.

207 (7) Nothing in this section prohibits the use of electronic communication or electronic
208 devices by a school employee within the scope of:

209 (a) the school employee's employment; or

210 (b) an investigation of bullying, hazing, or retaliation.

211 Section 8. Section **53A-11a-402** is enacted to read:

212 **53A-11a-402. Model policy.**

213 On or before July 1, 2008, the State Board of Education shall:

214 (1) develop a model policy on bullying, hazing, or retaliation, consistent with Section
215 53A-11a-401, in order to assist a school board in adopting a policy under Section
216 53A-11a-401; and

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

219 Section 9. Section **53A-11a-501** is enacted to read:

220 **Part 5. Miscellaneous**

221 **53A-11a-501. Training, education, and prevention.**

222 (1) A school board shall include in the training of a school employee, training
223 regarding bullying, hazing, or retaliation.

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

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

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

230 (b) the involvement of school employees, students, community resources, or law
231 enforcement.

232 Section 10. Section **53A-11a-502** is enacted to read:

233 **53A-11a-502. Other forms of legal redress.**

234 (1) Nothing in this chapter prohibits a victim of bullying, hazing, or retaliation from
235 seeking legal redress under any other provisions of civil or criminal law.

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

Legislative Review Note
as of 1-22-08 10:04 AM

Office of Legislative Research and General Counsel

H.B. 325 - Bullying and Hazing

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
