

1 **PREVENTING BULLYING AND HAZING IN ELEMENTARY**
2 **AND SECONDARY SCHOOLS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ralph Okerlund**

6 House Sponsor: Bill Wright

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies Title 53A, Chapter 11a, Bullying and Hazing, by making legislative
11 findings, amending definitions, requiring implementation of anti-bullying and hazing
12 policies, and requiring reporting of incidents of bullying or other conduct to the State
13 Board of Education.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ defines terms;
- 17 ▶ prohibits students and school employees from engaging in:
 - 18 • bullying;
 - 19 • cyber-bullying;
 - 20 • harassment;
 - 21 • hazing;
 - 22 • retaliation; and
 - 23 • making false claims regarding the aforementioned conduct;
- 24 ▶ requires schools, local school districts, and the State Board of Education to
25 implement anti-bullying and hazing policies; and
- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53A-11a-102**, as enacted by Laws of Utah 2008, Chapter 197

34 **53A-11a-201**, as enacted by Laws of Utah 2008, Chapter 197

35 **53A-11a-202**, as enacted by Laws of Utah 2008, Chapter 197

36 **53A-11a-301**, as last amended by Laws of Utah 2010, Chapter 218

37 **53A-11a-302**, as enacted by Laws of Utah 2008, Chapter 197

38 **53A-11a-401**, as enacted by Laws of Utah 2008, Chapter 197

39 **53A-11a-402**, as enacted by Laws of Utah 2008, Chapter 197

40

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

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

43 **53A-11a-102. Definitions.**

44 As used in this [part] chapter:

45 (1) (a) "Bullying" means intentionally or knowingly committing an act that:

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

47 (B) involves any brutality of a physical nature such as whipping, beating, branding,

48 calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or

49 exposure to the elements;

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

51 (D) involves other physical activity that endangers the physical health and safety of a

52 school employee or student; or

53 (E) involves physically obstructing a school employee's or student's freedom to move;

54 and

55 (ii) is done for the purpose of placing a school employee or student in fear of:

56 (A) physical harm to the school employee or student; or

57 (B) harm to property of the school employee or student.

58 (b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of
59 whether the person against whom the conduct is committed directed, consented to, or
60 acquiesced in, the conduct.

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

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

68 (4) "Harassment" means repeatedly communicating to another individual, in an
69 objectively demeaning or disparaging manner, statements that contribute to a hostile learning
70 or work environment for the individual.

71 [~~2~~] (5) (a) "Hazing" means intentionally or knowingly committing an act that:

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

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

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

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

79 (E) involves physically obstructing a school employee's or student's freedom to move;
80 and

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

84 (B) if the person committing the act against a school employee or student knew that the
85 school employee or student is a member of, or candidate for, membership with a school, or

86 school sponsored team, organization, program, or event to which the person committing the act
87 belongs to or participates in.

88 (b) The conduct described in Subsection [~~(2)~~] (5)(a) constitutes hazing, regardless of
89 whether the person against whom the conduct is committed directed, consented to, or
90 acquiesced in, the conduct.

91 [~~(3)~~] (6) "Policy" means a bullying and hazing policy described in Section
92 53A-11a-301.

93 [~~(4)~~] (7) "Retaliate" means an act or communication intended:

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

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

97 [~~(5)~~] (8) "School" means any public elementary or secondary school or charter school.

98 [~~(6)~~] (9) "School board" means:

99 (a) a local school board; or

100 (b) a local charter board.

101 [~~(7)~~] (10) "School employee" means:

102 (a) school teachers;

103 (b) school staff;

104 (c) school administrators; and

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

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

108 **53A-11a-201. Bullying, cyber-bullying, harassment, hazing, sexual battery, and**
109 **sexual exposure prohibited.**

110 (1) No school employee or student may engage in bullying or harassing a school
111 employee or student:

112 (a) on school property;

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

- 114 (c) on a school bus;
- 115 (d) at a school bus stop; or
- 116 (e) while the school employee or student is traveling to or from a location or event
- 117 described in Subsections (1)(a) through (d).

118 (2) No school employee or student may engage in hazing or cyber-bullying a school

119 employee or student at any time or in any location.

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

121 **53A-11a-202. Retaliation and making false allegation prohibited.**

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

- 123 (a) a school employee;
- 124 (b) a student; or
- 125 (c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying,
- 126 harassment, hazing, or retaliation.

127 (2) No school employee or student may make a false allegation of bullying,

128 cyber-bullying, harassment, hazing, or retaliation against a school employee or student.

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

130 **53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation**

131 **policy.**

132 [~~(1) On or before September 1, 2009, each school board shall adopt a bullying and~~

133 ~~hazing policy.]~~

134 (1) On or before September 1, 2012, each school board shall adopt a bullying,

135 cyber-bullying, harassment, and hazing policy consistent with this chapter.

136 (2) The policy shall:

- 137 (a) be developed only with input from:
- 138 (i) students;
- 139 (ii) parents;
- 140 (iii) teachers;
- 141 (iv) school administrators;

- 142 (v) school staff; or
- 143 (vi) local law enforcement agencies; and
- 144 ~~[(b) be implemented in an ongoing, consistent, and nondiscriminatory manner;]~~
- 145 ~~[(c) be integrated with existing school discipline policies and violence prevention~~
- 146 ~~efforts; and]~~
- 147 ~~[(d)]~~ (b) provide protection to a student, regardless of the student's legal status.
- 148 (3) The policy shall include the following components:
- 149 (a) definitions of bullying ~~[and hazing that, at a minimum, include the conduct~~
- 150 ~~described in the definitions of bullying and hazing under Section 53A-11a-102],~~
- 151 cyber-bullying, harassment, and hazing that are consistent with this chapter;
- 152 ~~[(b) the prohibitions described in Part 2, Prohibitions;]~~
- 153 ~~[(c) a description of the action that may be taken, and consequences or penalties that~~
- 154 ~~may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school~~
- 155 ~~employee or student for reporting bullying or hazing, which shall include:]~~
- 156 ~~[(i) suspension; or]~~
- 157 ~~[(ii) dissolution of a team, organization, or other group;]~~
- 158 ~~[(d) procedures for protecting:]~~
- 159 ~~[(i) a victim of bullying or hazing from being subjected to further bullying or hazing;~~
- 160 ~~and]~~
- 161 ~~[(ii) a school employee or student from retaliation for reporting bullying or hazing;]~~
- 162 ~~[(e) procedures for promptly reporting to law enforcement all acts of bullying, hazing,~~
- 163 ~~or retaliation that constitute criminal activity;]~~
- 164 ~~[(f) procedures for promptly investigating and responding to reports of bullying,~~
- 165 ~~hazing, or retaliation;]~~
- 166 ~~[(g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;]~~
- 167 ~~[(h) specification of the persons responsible for taking, investigating, and responding to~~
- 168 ~~reports of bullying, hazing, or retaliation;]~~
- 169 ~~[(i) a procedure for referring a victim of bullying or hazing to counseling;]~~

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

172 ~~[(k) to the extent permitted by federal and state law, including the federal Family~~
 173 ~~Educational and Privacy Rights Act of 1974, as amended, a procedure informing the parents or~~
 174 ~~guardians of a student who is a victim of bullying or hazing of the actions taken against the~~
 175 ~~perpetrators of the bullying or hazing;]~~

176 ~~[(l) procedures and plans for publicizing the policy to school employees, students, and~~
 177 ~~parents and guardians of students; and]~~

178 ~~[(m) procedures and plans for training school employees and students in recognizing~~
 179 ~~and preventing bullying, hazing, or retaliation.]~~

180 (b) language prohibiting bullying, cyber-bullying, harassment, and hazing;

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

183 (d) language prohibiting making a false report of bullying, cyber-bullying, harassment,
 184 hazing, or retaliation.

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

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

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

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

192 **53A-11a-302. Model policy and State Board of Education duties.**

193 On or before September 1, ~~[2008]~~ 2011, the State Board of Education shall:

194 (1) develop a model policy on bullying, ~~[hazing, and retaliation, consistent with~~
 195 ~~Section 53A-11a-301, in order to assist a school board in adopting a policy under Section~~
 196 ~~53A-11a-301; and]~~ cyber-bullying, harassment, hazing, and retaliation; and

197 (2) post the model policy described in Subsection (1) on the State Board of Education's

198 website.

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

200 **53A-11a-401. Training, education, and prevention.**

201 (1) A school board shall include in the training of a school employee, training
202 regarding bullying, cyber-bullying, harassment, hazing, and retaliation.

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

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

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

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

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

211 **53A-11a-402. Other forms of legal redress.**

212 (1) Nothing in this chapter prohibits a victim of bullying, cyber-bullying, harassment,
213 hazing, or retaliation from seeking legal redress under any other provisions of civil or criminal
214 law.

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