

Chapter 11a Bullying and Hazing

Part 1 General Provisions

53A-11a-101 Title.

This chapter is known as "Bullying and Hazing."

Enacted by Chapter 197, 2008 General Session

53A-11a-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Bullying" means intentionally or knowingly committing an act that:
 - (i)
 - (A) endangers the physical health or safety of a school employee or student;
 - (B) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - (C) involves consumption of any food, liquor, drug, or other substance;
 - (D) involves other physical activity that endangers the physical health and safety of a school employee or student; or
 - (E) involves physically obstructing a school employee's or student's freedom to move; and
 - (ii) is done for the purpose of placing a school employee or student in fear of:
 - (A) physical harm to the school employee or student; or
 - (B) harm to property of the school employee or student.
 - (b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- (2) "Communication" means the conveyance of a message, whether verbal, written, or electronic.
- (3) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.
- (4) "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.
- (5)
 - (a) "Hazing" means intentionally or knowingly committing an act that:
 - (i)
 - (A) endangers the physical health or safety of a school employee or student;
 - (B) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - (C) involves consumption of any food, liquor, drug, or other substance;

- (D) involves other physical activity that endangers the physical health and safety of a school employee or student; or
 - (E) involves physically obstructing a school employee's or student's freedom to move; and
- (ii)
- (A) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or
 - (B) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.
- (b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- (6) "Policy" means a bullying and hazing policy described in Section 53A-11a-301.
- (7) "Retaliate" means an act or communication intended:
- (a) as retribution against a person for reporting bullying or hazing; or
 - (b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.
- (8) "School" means any public elementary or secondary school or charter school.
- (9) "School board" means:
- (a) a local school board; or
 - (b) a local charter board.
- (10) "School employee" means:
- (a) school teachers;
 - (b) school staff;
 - (c) school administrators; and
 - (d) all others employed, directly or indirectly, by the school, school board, or school district.

Amended by Chapter 235, 2011 General Session

Part 2 Prohibitions

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

- (1) No school employee or student may engage in bullying or harassing a school employee or student:
- (a) on school property;
 - (b) at a school related or sponsored event;
 - (c) on a school bus;
 - (d) at a school bus stop; or
 - (e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).
- (2) No school employee or student may engage in hazing or cyber-bullying a school employee or student at any time or in any location.

Amended by Chapter 235, 2011 General Session

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

- (1) No school employee or student may engage in retaliation against:
 - (a) a school employee;
 - (b) a student; or
 - (c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, harassment, hazing, or retaliation.
- (2) No school employee or student may make a false allegation of bullying, cyber-bullying, harassment, hazing, or retaliation against a school employee or student.

Amended by Chapter 235, 2011 General Session

53A-11a-203 Parental notification of certain incidents and threats required.

- (1) For purposes of this section, "parent" includes a student's guardian.
- (2) A school shall:
 - (a) notify a parent if the parent's student threatens to commit suicide; or
 - (b) notify the parents of each student involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation, of the incident involving each parent's student.
- (3)
 - (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.
 - (b) A school shall maintain a record described in Subsection (3)(a) in accordance with the requirements of:
 - (i) Chapter 1, Part 14, Student Data Protection Act;
 - (ii) Sections 53A-13-301 and 53A-13-302;
 - (iii) Federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and
 - (iv) 34 C.F.R. Part 99.
- (4) A local school board or charter school governing board shall adopt a policy regarding the process for:
 - (a) notifying a parent as required in Subsection (2); and
 - (b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).
- (5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).
- (6) A school shall:
 - (a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and
 - (b) expunge a record maintained in accordance with this section that relates to a student if the student:
 - (i) has graduated from high school; and
 - (ii) requests the record be expunged.

Amended by Chapter 221, 2016 General Session

Part 3 School Policy

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

- (1) On or before September 1, 2013, each school board shall update the school board's bullying, cyber-bullying, harassment, hazing, and retaliation policy consistent with this chapter.
- (2) The policy shall:
 - (a) be developed only with input from:
 - (i) students;
 - (ii) parents;
 - (iii) teachers;
 - (iv) school administrators;
 - (v) school staff; or
 - (vi) local law enforcement agencies; and
 - (b) provide protection to a student, regardless of the student's legal status.
- (3) The policy shall include the following components:
 - (a) definitions of bullying, cyber-bullying, harassment, and hazing that are consistent with this chapter;
 - (b) language prohibiting bullying, cyber-bullying, harassment, and hazing;
 - (c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this chapter;
 - (d) language prohibiting making a false report of bullying, cyber-bullying, harassment, hazing, or retaliation; and
 - (e) as required in Section 53A-11a-203, parental notification of:
 - (i) a student's threat to commit suicide; and
 - (ii) an incident of bullying, cyber-bullying, harassment, hazing, or retaliation involving the parent's student.
- (4) A copy of the policy shall be included in student conduct handbooks and employee handbooks.
- (5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, harassment, hazing, or retaliation.
- (6) Nothing in this chapter is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

Amended by Chapter 335, 2013 General Session

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

On or before September 1, 2013, the State Board of Education shall:

- (1) update the State Board of Education's model policy on bullying, cyber-bullying, harassment, hazing, and retaliation; and
- (2) post the model policy described in Subsection (1) on the State Board of Education's website.

Amended by Chapter 335, 2013 General Session

Part 4 Miscellaneous

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

- (1) A school board shall include in the training of a school employee, training regarding bullying, cyber-bullying, harassment, hazing, and retaliation.
- (2) To the extent that state or federal funding is available for this purpose, school boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, and retaliation.
- (3) The programs or initiatives described in Subsection (2) may involve:
 - (a) the establishment of a bullying task force; or
 - (b) the involvement of school employees, students, or law enforcement.

Amended by Chapter 235, 2011 General Session

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

- (1) Nothing in this chapter prohibits a victim of bullying, cyber-bullying, harassment, hazing, or retaliation from seeking legal redress under any other provisions of civil or criminal law.
- (2) This section does not create or alter tort liability.

Amended by Chapter 235, 2011 General Session