

**Representative Eric K. Hutchings** proposes the following substitute bill:

**ADDRESSING MAJOR DISRUPTIONS BY**

**PUBLIC SCHOOL STUDENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Eric K. Hutchings**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the State System of Public Education Code by authorizing and requiring school districts and charter schools to address disruptive student behavior.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that school discipline and conduct plan provisions are applicable to school districts and charter schools;
- ▶ authorizes a school district or charter school to:
  - issue notices of disruptive student behavior to certain students; and
  - issue a habitual disruptive student behavior citation to certain students; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



53A-11-901, as last amended by Chapter 97, Laws of Utah 1995

53A-11-902, as last amended by Chapter 97, Laws of Utah 1995

53A-11-903, as last amended by Chapter 10, Laws of Utah 2001, First Special Session

53A-11-904, as last amended by Chapter 203, Laws of Utah 2003

53A-11-905, as last amended by Chapter 97, Laws of Utah 1995

53A-11-906, as last amended by Chapter 318, Laws of Utah 1996

53A-11-907, as last amended by Chapter 318, Laws of Utah 1996

53A-11-908, as enacted by Chapter 240, Laws of Utah 1997

ENACTS:

53A-11-910, Utah Code Annotated 1953

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

Section 1. Section 53A-11-901 is amended to read:

**53A-11-901. School discipline policies -- Basis of the policies -- Enforcement.**

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or governing board of a charter school, with input from ~~[district]~~ school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools ~~[within the district]~~.

(b) Each district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) The State Superintendent of Public Instruction shall develop conduct and discipline policy models for elementary and secondary public schools.

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Section 2. Section **53A-11-902** is amended to read:

**53A-11-902. Conduct and discipline policies and procedures.**

The conduct and discipline policies required under Section 53A-11-901 shall include:

- (1) provisions governing student conduct, safety, and welfare;
- (2) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;
- (3) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (2);
- (4) procedures for the use of reasonable and necessary physical restraint or force in dealing with disruptive students, consistent with Section 53A-11-802;
- (5) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (2), if the conduct threatens harm or does harm to:
  - (a) the school;
  - (b) school property;
  - (c) a person associated with the school; or
  - (d) property associated with a person described in Subsection (5)(c);
- (6) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;
- (7) specific provisions for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events[-]; and
- (8) standards and procedures for dealing with habitual disruptive student behavior in accordance with the provisions of this part.

Section 3. Section **53A-11-903** is amended to read:

**53A-11-903. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.**

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or governing board of a charter school.

(2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

Section 4. Section **53A-11-904** is amended to read:

**53A-11-904. Grounds for suspension or expulsion from a public school.**

(1) A student may be suspended or expelled from a public school for any of the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32A-1-105; or

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the

school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs.

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent ~~[or]~~, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and

(ii) the superintendent shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53A-11-907, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district and the student to modify the expulsion term to less than a year, conditioned on approval by the local school

board or governing board of a charter school and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53A-11-102(1).

(5) Each local school board or governing board of a charter school shall prepare an annual report for the State Board of Education on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

Section 5. Section **53A-11-905** is amended to read:

**53A-11-905. Delegation of authority to suspend or expel a student -- Procedure for suspension -- Readmission.**

(1) A local board of education or governing board of a charter school may delegate to any school principal [or], assistant principal, or chief administrative officer of a charter school within the school district the power to suspend a student in the principal's or chief administrative officer's school for up to ten school days.

(2) The board may suspend a student for up to one school year or delegate that power to the district superintendent [or], the superintendent's designee, or chief administrative officer of a charter school.

(3) The board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the board, at least once each year.

(4) If a student is suspended, a designated school official shall notify the parent or guardian of the student of the following without delay:

(a) that the student has been suspended;

(b) the grounds for the suspension;

(c) the period of time for which the student is suspended; and

(d) the time and place for the parent or guardian to meet with a designated school official to review the suspension.

(5) (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent or guardian or other person authorized by the parent or applicable law to accept custody of the student.

(b) Except as otherwise provided in Subsection (c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent or guardian have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent or guardian of the suspended student and the student have agreed to participate in such a meeting.

(c) A suspension may not extend beyond ten school days unless the student and the student's parent or guardian have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

Section 6. Section **53A-11-906** is amended to read:

**53A-11-906. Alternatives to suspension or expulsion.**

(1) Each local school board or governing board of a charter school shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent or guardian of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

Section 7. Section **53A-11-907** is amended to read:

**53A-11-907. Student suspended or expelled -- Responsibility of parent or guardian -- Application for students with disabilities.**

(1) If a student is suspended or expelled from a public school under this part for more than ten school days, the parent or guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent or guardian shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent or guardian and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent or guardian.

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

(b) The district or charter school shall contact the parent or guardian of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

Section 8. Section **53A-11-908** is amended to read:

**53A-11-908. Prohibited conduct -- Reporting of violations -- Limitation of liability.**



(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and rules of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff.

(b) Those rules shall include prohibitions against the following types of conduct while in the classroom, while on school property, or during school sponsored activities:

(i) use of foul, abusive, or profane language while engaged in school related activities;

(ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of tobacco or alcoholic beverages contrary to law; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may

have occurred shall immediately report that belief to the school principal [or], district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within ten working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53A-11-1004 apply to this section.

Section 9. Section **53A-11-910** is enacted to read:

**53A-11-910. Notice of disruptive student behavior -- Failure to cooperate with school authorities -- Habitual disruptive student behavior citation.**

(1) (a) As used in this section, "disruptive student behavior" includes the following types of conduct while in the classroom, while on school property, or during school sponsored activities:

(i) use of foul, abusive, or profane language;

(ii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings; or

(iii) other behavior that disrupts order and discipline on school premises or in the classroom.

(b) A local school board, school district, governing board of a charter school, or charter school shall excuse student behavior that would otherwise be considered disruptive student behavior consistent with that student's:

(i) individualized education program, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended; or

(ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended.

(2) A student may not participate in disruptive student behavior.

(3) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties on a student who violates this part.

(4) A local school board or governing board of a charter school shall:

305 (a) authorize a school administrator or a designee of a school administrator to issue  
306 notices of disruptive student behavior to students who are at least 10 years old; and

307 (b) establish a procedure for a student, or a student's parents, to contest a notice of  
308 disruptive student behavior.

309 (5) The notice of disruptive student behavior described in Subsection (3):

310 (a) may not be issued until the student has committed disruptive student behavior five  
311 times during the school year;

312 (b) shall be based on documented teacher referrals;

313 (c) may not be issued to a student who is less than 10 years old;

314 (d) shall provide notice to the student's parent or guardian of the disruptive student  
315 behavior;

316 (e) shall state the consequences of receiving a disruptive student behavior citation;

317 (f) shall request that the student and the parent or guardian of the student:

318 (i) meet with school authorities to discuss the student's disruptive student behavior; and

319 (ii) cooperate with the school board or school district in developing a plan to correct  
320 the student's disruptive behavior; and

321 (iii) voluntarily participate in disruptive behavior; and

322 (g) shall be mailed to, or served on, the student's parent or guardian.

323 (6) In addition to the efforts described in Subsection (5), the local school board, school  
324 district, governing board of a charter school, or charter school may enlist the assistance of  
325 community and law enforcement agencies as appropriate and reasonably feasible.

326 (7) A habitual disruptive student behavior citation shall be issued to a habitual  
327 disruptive student if:

328 (a) the student is at least 12 years old;

329 (b) the local school board, school district, governing board of a charter school, or  
330 charter school has made reasonable efforts to resolve the student's disruptive behavior  
331 problems;

332 (c) the efforts to resolve the student's disruptive behavior problems, described in  
333 Subsection (7)(b), have not been successful; and

334 (d) the student has committed disruptive student behavior at least ten times during the  
335 school year.

336           (8) (a) A school district or charter school shall report disruptive students to whom a  
337 habitual disruptive student citation is issued to the appropriate county or district attorney.

338           (b) The juvenile court has jurisdiction over an action filed.

339           (9) A notice of disruptive student behavior or a habitual disruptive student behavior  
340 citation may only be issued by:

341           (a) a school administrator, or a truancy specialist, who is authorized by a local school  
342 board or governing board of a charter school; or

343           (b) a designee of a school administrator described in Subsection (9)(a).

344           (10) Nothing in this part prohibits a local school board, school district, governing board  
345 of a charter school, or charter school from taking action to resolve a disruptive student behavior  
346 problem with a student who has been given notice of disruptive student behavior less than five  
347 times, provided that the action does not conflict with the requirements of this part.