

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: _____

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:



- 26 **53A-11-901**, as last amended by Chapter 97, Laws of Utah 1995
- 27 **53A-11-902**, as last amended by Chapter 97, Laws of Utah 1995
- 28 **53A-11-903**, as last amended by Chapter 10, Laws of Utah 2001, First Special Session
- 29 **53A-11-904**, as last amended by Chapter 203, Laws of Utah 2003
- 30 **53A-11-905**, as last amended by Chapter 97, Laws of Utah 1995
- 31 **53A-11-906**, as last amended by Chapter 318, Laws of Utah 1996
- 32 **53A-11-907**, as last amended by Chapter 318, Laws of Utah 1996
- 33 **53A-11-908**, as enacted by Chapter 240, Laws of Utah 1997

34 ENACTS:

- 35 **53A-11-910**, Utah Code Annotated 1953



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

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

39 **53A-11-901. School discipline policies -- Basis of the policies -- Enforcement.**

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

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

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

- 49 (i) to follow accepted rules of conduct; and
- 50 (ii) to show respect for other people and to obey persons in authority at the school.

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

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

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

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

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

62 **53A-11-902. Conduct and discipline policies and procedures.**

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

64 (1) provisions governing student conduct, safety, and welfare;

65 (2) standards and procedures for dealing with students who cause disruption in the
66 classroom, on school grounds, on school vehicles, or in connection with school-related
67 activities or events;

68 (3) procedures for the development of remedial discipline plans for students who cause
69 a disruption at any of the places referred to in Subsection (2);

70 (4) procedures for the use of reasonable and necessary physical restraint or force in
71 dealing with disruptive students, consistent with Section 53A-11-802;

72 (5) standards and procedures for dealing with student conduct in locations other than
73 those referred to in Subsection (2), if the conduct threatens harm or does harm to:

74 (a) the school;

75 (b) school property;

76 (c) a person associated with the school; or

77 (d) property associated with a person described in Subsection (5)(c);

78 (6) procedures for the imposition of disciplinary sanctions, including suspension and
79 expulsion;

80 (7) specific provisions for preventing and responding to gang-related activities in the
81 school, on school grounds, on school vehicles, or in connection with school-related activities or
82 events[-]; and

83 (8) standards and procedures for dealing with habitual disruptive student behavior in
84 accordance with the provisions of this part.

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

86 **53A-11-903. Suspension and expulsion procedures -- Notice to parents --**

87 **Distribution of policies.**

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

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

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

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

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

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

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

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

107 **53A-11-904. Grounds for suspension or expulsion from a public school.**

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

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

112 (b) willful destruction or defacing of school property;

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

116 (d) possession, control, or use of an alcoholic beverage as defined in Section
117 32A-1-105; or

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

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

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

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

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

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

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

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

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

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

142 (ii) the superintendent shall determine:

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

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

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

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

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

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

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

158 (a) each violation committed under this section; and

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

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

162 **53A-11-905. Delegation of authority to suspend or expel a student -- Procedure**
163 **for suspension -- Readmission.**

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

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

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

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

176 (a) that the student has been suspended;

177 (b) the grounds for the suspension;

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

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

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

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

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

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

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

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

196 **53A-11-906. Alternatives to suspension or expulsion.**

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

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

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

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

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

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

213 **53A-11-907. Student suspended or expelled -- Responsibility of parent or**
214 **guardian -- Application for students with disabilities.**

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

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

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

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

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

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

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

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

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

241 **53A-11-908. Prohibited conduct -- Reporting of violations -- Limitation of**
242 **liability.**

243 (1) The Legislature recognizes that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

283 **53A-11-910. Notice of disruptive student behavior -- Failure to cooperate with**
284 **school authorities -- Habitual disruptive student behavior citation.**

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

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

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

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

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

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

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

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

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

304 (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.