

1 **STUDENT CLUB AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: D. Chris Buttars**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the State System of Public Education Code's regulation of curricular
10 and noncurricular clubs.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides definitions;
- 14 ▶ modifies legislative findings;
- 15 ▶ provides requirements and procedures for the authorization of curricular and
16 noncurricular clubs;
- 17 ▶ regulates the use of school buildings by authorized clubs;
- 18 ▶ provides for faculty oversight of authorized clubs;
- 19 ▶ provides requirements for club membership, including parental consent;
- 20 ▶ requires the investigation of complaints, provides school options for violations, and
21 establishes appeals procedures;
- 22 ▶ allows additional rulemaking by the State Board of Education and provides
23 additional rulemaking authority for local school governing boards;
- 24 ▶ provides severability; and
- 25 ▶ makes technical corrections.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

- 32 **53A-11-1201**, Utah Code Annotated 1953
- 33 **53A-11-1202**, Utah Code Annotated 1953
- 34 **53A-11-1203**, Utah Code Annotated 1953
- 35 **53A-11-1204**, Utah Code Annotated 1953
- 36 **53A-11-1205**, Utah Code Annotated 1953
- 37 **53A-11-1206**, Utah Code Annotated 1953
- 38 **53A-11-1207**, Utah Code Annotated 1953
- 39 **53A-11-1208**, Utah Code Annotated 1953
- 40 **53A-11-1209**, Utah Code Annotated 1953
- 41 **53A-11-1210**, Utah Code Annotated 1953
- 42 **53A-11-1211**, Utah Code Annotated 1953
- 43 **53A-11-1212**, Utah Code Annotated 1953
- 44 **53A-11-1213**, Utah Code Annotated 1953
- 45 **53A-11-1214**, Utah Code Annotated 1953

46 REPEALS:

47 **53A-3-419**, as enacted by Chapter 10, Laws of Utah 1996, Second Special Session



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

50 Section 1. Section **53A-11-1201** is enacted to read:

51 **Part 12. Student Clubs Act**

52 **53A-11-1201. Title.**

53 This part is known as the "Student Clubs Act."

54 Section 2. Section **53A-11-1202** is enacted to read:

55 **53A-11-1202. Findings and purpose.**

56 (1) The Legislature finds that certain activities, programs, and conduct are detrimental
57 to the:

58 (a) physical, emotional, psychological, and moral well-being of students and faculty;

- 59 (b) maintenance of order and discipline on school premises;
- 60 (c) orderly conduct of a school's educational activities;
- 61 (d) protection of the rights of parents or guardians and students;
- 62 (e) maintenance of the boundaries of socially appropriate behavior; and
- 63 (f) compliance with all applicable laws, rules, regulations, and policies.

64 (2) The purpose of this part is to provide guidance to local school boards, charter
65 school boards, and schools as they have the authority and responsibility to limit or deny
66 authorization or school building use to any student club whose program or activities would
67 materially and substantially:

- 68 (a) encourage criminal or delinquent conduct;
- 69 (b) promote bigotry;
- 70 (c) involve human sexuality; or
- 71 (d) otherwise violate the provisions of this part.

72 Section 3. Section **53A-11-1203** is enacted to read:

73 **53A-11-1203. Definitions.**

74 As used in this part:

- 75 (1) "Bigotry" means action or advocacy of imminent action involving:
 - 76 (a) the harassment or denigration of persons or entities, including harassment or
77 denigration based upon race, religion, national origin, gender, disability, or sexual orientation;
78 or
 - 79 (b) any intent to cause a person not to freely enjoy or exercise any right secured by the
80 constitution or laws of the United States or the state, except that an evaluation or prohibition
81 may not be made of the truth or falsity of any religious belief or expression of conscience
82 unless the means of expression or conduct arising therefrom violates the standards of conduct
83 outlined in this section, Section 53A-13-101.3, or 20 U.S.C. Section 4071(f).
 - 84 (2) "Club" means any student organization that meets during noninstructional time.
 - 85 (3) "Conscience" means a standard based upon learned experiences, a personal
86 philosophy or system of belief, religious teachings or doctrine, an absolute or external sense of
87 right and wrong which is felt on an individual basis, a belief in an external absolute, or any
88 combination of the foregoing.
 - 89 (4) "Curricular club" means a club that is school sponsored and that may receive

90 leadership, direction, and support from the school or school district beyond providing a
 91 meeting place during noninstructional time. An elementary school curricular club means a club
 92 that is organized and directed by school sponsors at the elementary school. A secondary school
 93 curricular club means a club:

94 (a) whose subject matter is taught or will soon be taught in a regular course;

95 (b) whose subject matter concerns the body of courses as a whole;

96 (c) in which participation is required for a particular course; or

97 (d) in which participation results in academic credit.

98 (5) (a) "Discretionary time" means school-related time for students that is not
 99 instructional time.

100 (b) "Discretionary time" includes free time before and after school, during lunch and
 101 between classes or on buses, and private time before athletic and other events or activities.

102 (6) (a) "Encourage criminal or delinquent conduct" means action or advocacy of
 103 imminent action that violates any law or administrative rule.

104 (b) "Encourage criminal or delinquent conduct" does not include discussions in
 105 compliance with concerning changing of laws or rules, or actions taken through lawfully
 106 established channels to effectuate such change.

107 (7) (a) "Instructional time" means time during which a school is responsible for a
 108 student and the student is required or expected to be actively engaged in a learning activity.

109 (b) "Instructional time" includes instructional activities in the classroom or study hall
 110 during regularly scheduled hours, required activities outside the classroom, and counseling,
 111 private conferences, or tutoring provided by school employees or volunteers acting in their
 112 official capacities during or outside of regular school hours.

113 (8) "Involve human sexuality" ~~§~~ → [means] includes ← ~~§~~ :

114 (a) presenting information in violation of laws governing sex education;

115 ~~§~~ → [(b) promoting or encouraging self-labeling by students in terms of sexual orientation;

116 ~~(c) disclosing attitudes or personal conduct of students or members of their families~~
 117 ~~regarding sexual orientation, attitudes, or belief;~~

118 ~~(d) advocating, approving, or engaging in sexual activity outside of marriage; or]~~

118a ~~(b) advocating or engaging in sexual activity outside of legally recognized marriage or~~
 118b ~~forbidden by state law; or~~

119 ~~[(e)] (c) ← ~~§~~ presenting or discussing information relating to the use of contraceptive~~
 119a ~~devices or~~

120 ~~substances, regardless of whether the use is for purposes of contraception or personal health.~~

121 (9) "Limited open forum" means a forum created by a district for student expression
122 within the constraints of Subsection 53A-13-101.3(2)(b) and within the terms defined in 20
123 U.S.C. Section 4071(b), including allowing curricular and noncurricular clubs in accordance
124 with the provisions of this part.

125 (10) "Noncurricular club" is a student initiated group that may be authorized and
126 allowed school building use during noninstructional time in secondary schools by a school and
127 school governing board in accordance with the provisions of this part. A noncurricular club's
128 meetings, ideas, and activities are not sponsored or endorsed in any way by a school governing
129 board, the school, or by school or school district employees.

130 (11) "Noninstructional time" means time set aside by a school before instructional time
131 begins or after instructional time ends, including discretionary time.

132 (12) "School" means a public school, including a charter school.

133 (13) "School building use" means access to a school facility or premises, including
134 access to a limited open forum.

135 (14) "School governing board" means a local school board or charter school board.

136 Section 4. Section **53A-11-1204** is enacted to read:

137 **53A-11-1204. Student clubs -- Limited open forum -- Authorization.**

138 (1) (a) A school may establish and maintain a limited open forum for student clubs
139 pursuant to the provisions of this part, State Board of Education rules, and school governing
140 board policies.

141 (b) Notwithstanding the provisions under Subsection (1)(a), a school retains the right to
142 create a closed forum at any time by allowing curricular clubs only.

143 (2) (a) A school shall review applications for authorization of clubs on a case-by-case
144 basis.

145 (b) Before granting an authorization, the school shall find:

146 (i) that the proposed club meets this part's respective requirements of a curricular club
147 or a noncurricular club; and

148 (ii) that the proposed club's purpose and activities comply with this part.

149 (c) Before granting an authorization, a school may request additional information from
150 the faculty sponsor, from students proposing the club, or from its school governing board, if
151 desired.

152 (3) A school shall grant authorization and school building use to curricular and
153 noncurricular clubs whose applications are found to meet the requirements of this part, rules of
154 the State Board of Education, and policies of the school governing board and shall limit or
155 deny authorization or school building use to proposed clubs that do not meet the requirements
156 of this part, rules of the State Board of Education, and policies of the school governing board.

157 Section 5. Section **53A-11-1205** is enacted to read:

158 **53A-11-1205. Curricular clubs -- Authorization.**

159 (1) Faculty members or students proposing a curricular club shall submit written
160 application for authorization on a form approved by the school governing board no later than
161 October 15 of the year of the club's inception.

162 (2) A school governing board may exempt a club whose membership is determined by
163 student body election or a club that is governed by an association that regulates interscholastic
164 activities from the authorization requirements under this section.

165 (3) An application for authorization of a curricular club shall include:

166 (a) the recommended club name;

167 (b) a statement of the club's purpose, goals, and activities;

168 (c) the recommended meeting times, dates, and places; and

169 (d) the proposed club charter, constitution, or bylaws which shall include at least:

170 (i) the rules of organization;

171 (ii) the election of officers;

172 (iii) objective membership criteria;

173 (iv) meeting rules of order;

174 (v) procedures for amending the rules; and

175 (vi) a statement that the club will comply with the provisions of this part and all other
176 applicable laws, rules, or policies.

177 (4) A school shall approve the name of a curricular club consistent with the club's
178 purposes and its school sponsorship.

179 (5) (a) A school shall determine curriculum relatedness by strictly applying this part's
180 definition of curricular club to the club application.

181 (b) If the school finds that the proposed club is a curricular club, the school shall
182 continue to review the application as an application for authorization of a curricular club.

183 (c) If the school finds that the proposed club is a noncurricular club, the school may:

184 (i) return the application to the faculty member or students proposing the club for
185 amendment; or

186 (ii) review the application as an application for authorization of a noncurricular club.

187 (6) (a) Only curricular clubs may be authorized for elementary schools.

188 (b) A school governing body may limit, or permit a secondary school to limit, the
189 authorization of clubs at the secondary school to only curricular clubs.

190 Section 6. Section **53A-11-1206** is enacted to read:

191 **53A-11-1206. Noncurricular clubs -- Annual authorization.**

192 (1) A school governing board may establish a minimum number of members for
193 noncurricular clubs, provided that all noncurricular clubs shall be treated equally.

194 (2) Students proposing a noncurricular club shall submit a written application for
195 authorization on a form approved by the school governing board no later than October 15 of
196 each year.

197 (3) An application for authorization of a curricular club shall include:

198 (a) the recommended club name;

199 (b) a statement of the club's purpose, goals, and activities;

200 (c) the recommended meeting times, dates, and places; and

201 (d) the proposed club charter, constitution, or bylaws, which shall include at least:

202 (i) the rules of organization;

203 (ii) the election of officers;

204 (iii) objective membership criteria;

205 (iv) meeting rules of order;

206 (v) procedures for amending the rules; and

207 (vi) a statement that the club will comply with the provisions of this part and all other
208 applicable laws, rules, or policies.

209 (4) (a) A school governing board may provide for approval of a noncurricular club
210 name in an action separate from that relating to authorization of the club itself.

211 (b) A school governing board may require:

212 (i) that a noncurricular club name shall reasonably reflect the club's purpose, goals, and
213 activities; and

214 (ii) that the noncurricular club name shall be a name that would not result in or imply a
215 violation of this part.

216 Section 7. Section **53A-11-1207** is enacted to read:

217 **53A-11-1207. Clubs -- Limitations and denials.**

218 (1) A school shall limit or deny authorization or school building use to a club or
219 require changes prior to granting authorization or school building use:

220 (a) as the school determines it to be necessary to:

221 (i) protect the physical, emotional, psychological, or moral well-being of students and
222 faculty;

223 (ii) maintain order and discipline on school premises;

224 (iii) prevent a material and substantial interference with the orderly conduct of a
225 school's educational activities;

226 (iv) protect the rights of parents or guardians and students;

227 (v) maintain the boundaries of socially appropriate behavior; or

228 (vi) ensure compliance with all applicable laws, rules, regulations, and policies; or

229 (b) whose proposed charter and proposed activities indicate students or advisors in club
230 related activities would as a substantial, material, or significant part of their conduct or means
231 of expression:

232 (i) encourage criminal or delinquent conduct;

233 (ii) promote bigotry;

234 (iii) involve human sexuality; or

235 (iv) involve any effort to engage in or conduct mental health therapy, counseling, or
236 psychological services for which a license would be required under state law.

237 (2) A school governing board has the authority to determine whether any club meets
238 the criteria of Subsection (1).

239 (3) A student's spontaneous expression of sentiments or opinions otherwise identified
240 in Subsection 53A-13-302(1) is not prohibited.

241 Section 8. Section **53A-11-1208** is enacted to read:

242 **53A-11-1208. Faculty oversight of authorized clubs.**

243 (1) A school shall make faculty assignments for each authorized curricular and
244 noncurricular club to provide oversight consistent with this part and the needs of the school to

245 ensure that the speech, methods of expression, religious practices, or other conduct of the
246 students or advisors involved do not:

247 (a) unreasonably interfere with the ability of school officials to maintain order and
248 discipline;

249 (b) unreasonably endanger or threaten the well-being of persons or property;

250 (c) violate concepts of civility or propriety appropriate to a school setting; or

251 (d) have as an intended effect the revealing of information identified in Subsection
252 53A-13-302(1).

253 (2) (a) A school shall annually assign faculty members as sponsors of curricular clubs.

254 (b) Faculty sponsors shall organize and direct the purpose and activities of a curricular
255 club.

256 (3) A school shall determine whether a noncurricular club is a religious club.

257 (4) (a) A school shall assign faculty members to serve as supervisors for noncurricular,
258 nonreligious clubs.

259 (b) A faculty supervisor shall provide oversight to ensure compliance with the
260 approved club charter, constitution, or bylaws and with the provisions of this part and other
261 applicable laws, rules, and policies.

262 (c) The assignment of a faculty supervisor does not constitute school sponsorship of
263 the club.

264 (5) (a) A school shall assign faculty members to serve as monitors for religious clubs.

265 (b) A faculty monitor shall provide oversight to ensure compliance with the approved
266 club charter, constitution, or bylaws, and with the provisions of this part and other applicable
267 laws, rules, and policies.

268 (c) The assignment of a faculty monitor does not constitute school sponsorship of the
269 club.

270 (d) A faculty monitor or other school employee may not participate in religious clubs in
271 any other capacity.

272 (e) A faculty member or other school employee may not be required to attend any
273 religious club meeting if the content of the speech at the meeting is contrary to the beliefs of
274 the employee.

275 Section 9. Section **53A-11-1209** is enacted to read:

276 **53A-11-1209. Use of school facilities by clubs.**

277 (1) A school shall determine and assign school building use for curricular and
278 noncurricular clubs consistent with the needs of the school.

279 (2) The following rules apply to curricular clubs:

280 (a) in assigning school building use, the administrator may give priority to curricular
281 clubs over noncurricular clubs; and

282 (b) the school may provide financial or other support to curricular clubs.

283 (3) The following rules apply to noncurricular clubs:

284 (a) a preference or priority may not be given among noncurricular clubs;

285 (b) (i) a school shall only provide the space for noncurricular club meetings; and

286 (ii) a school may not spend public funds for noncurricular clubs;

287 (c) a school shall establish the noninstructional times during which noncurricular clubs
288 may meet;

289 (d) a school may establish the places that noncurricular clubs may meet; and

290 (e) a school may set the number of hours noncurricular clubs may meet per month,

291 provided that all noncurricular clubs shall be treated equally.

292 Section 10. Section **53A-11-1210** is enacted to read:

293 **53A-11-1210. Club membership -- Parental consent.**

294 (1) A school shall require written parental or guardian consent for student participation
295 in all curricular and noncurricular clubs at the school.

296 (2) Membership in curricular clubs is governed by the following rules:

297 (a) student membership in a curricular club is voluntary;

298 (b) (i) membership may be limited to students who are currently attending the
299 sponsoring school or school district; and

300 (ii) members who attend a school other than the sponsoring school shall have, in
301 addition to the consent required under Subsection (1), specific parental or guardian permission
302 for membership in a curricular club at another school;

303 (c) (i) clubs may require that prospective members try out based on objective criteria
304 outlined in the application materials; and

305 (ii) try-outs may not require activities that violate the provisions of this part and other
306 applicable laws, rules, and policies;

307 (d) membership may not be limited on the basis of race, gender, ethnicity, national
308 origin, or disability; and

309 (e) other rules as determined by the State Board of Education, school district, or
310 school.

311 (3) Membership in noncurricular clubs is governed by the following rules:

312 (a) student membership in a noncurricular club is voluntary;

313 (b) membership shall be limited to students who are currently attending the school;

314 (c) (i) clubs may require that prospective members try out based on objective criteria
315 outlined in the application materials; and

316 (ii) try-outs may not require activities that violate the provisions of this part and other
317 applicable laws, rules, and policies;

318 (d) membership may not be limited on the basis of race, gender, ethnicity, national
319 origin, or disability;

320 (e) (i) attendance or participation in club meetings or activities is limited to members,
321 except that nonschool persons may attend on occasion to make presentations if approved in
322 advance by the school; and

323 (ii) nonschool persons may not direct, conduct, control, or regularly attend meetings or
324 activities of clubs; and

325 (f) other rules as determined by the State Board of Education, school district, or school.

326 Section 11. Section **53A-11-1211** is enacted to read:

327 **53A-11-1211. Violations -- Investigations -- School responses.**

328 (1) A school shall investigate any report or allegation that an authorized curricular or
329 noncurricular club is:

330 (a) participating in activities beyond the scope of its charter, constitution, or bylaws; or

331 (b) in violation of a provision of this part or another applicable law, rule, regulation, or
332 policy.

333 (2) After meeting with the faculty sponsor, faculty supervisor, or faculty monitor and
334 the students involved, the school may do any of the following:

335 (a) allow the club's original charter, constitution, or bylaws to be modified to include
336 the activities if they are in compliance with the provisions of this part and other applicable
337 laws, rules, regulations, or policies;

338 (b) instruct the sponsor, supervisor, or monitor not to allow similar violations in the
339 future;

340 (c) limit or suspend the club's authorization or school building use pending further
341 corrective action as determined by the school; or

342 (d) terminate the club's authorization and dissolve the club.

343 (3) Any limitation on expression, practice, or conduct of any student, advisor, or guest
344 in a meeting of a curricular or noncurricular club, or limitation on school building use, shall be
345 by the least restrictive means necessary to satisfy the school's interests as identified in this part.

346 (4) A club that has been terminated in accordance with Subsection (2)(d) may not
347 reapply for authorization until the following school year.

348 Section 12. Section **53A-11-1212** is enacted to read:

349 **53A-11-1212. Appeals -- Procedures.**

350 (1) A student directly affected by a decision made in accordance with the provisions of
351 this part may appeal the decision by writing to a person designated by the school governing
352 board.

353 (2) (a) Each completed application or complaint shall be approved, denied, or
354 investigated within five school days.

355 (b) If an application or complaint is denied, written reasons for the denial or results of
356 the investigation shall be stated and, if appropriate, suggested corrections shall be made to
357 remedy the deficiency.

358 (3) Each student who is denied participation in a club or school building use shall be
359 informed at the time of the denial of the factual or legal basis for the denial, and, if appropriate,
360 how the basis for the denial could be corrected.

361 (4) (a) If denied, suspended, or terminated, a club, student desirous of participating or
362 speaking, or a complaining parent or guardian, has ten school days from the date of the action
363 to file a written appeal from the denial, suspension, or termination to a designee authorized by
364 the school governing board.

365 (b) The designee shall issue a determination within five school days from receipt of the
366 appeal, which decision is final and constitutes satisfaction of all administrative remedies unless
367 the time for evaluation is extended by agreement of all parties.

368 Section 13. Section **53A-11-1213** is enacted to read:

369 **53A-11-1213.** Rulemaking -- State Board of Education -- School governing
370 boards.

371 The State Board of Education may adopt additional rules and school governing boards
372 may adopt additional rules or policies governing clubs that do not conflict with the provisions
373 of this part.

374 Section 14. Section **53A-11-1214** is enacted to read:

375 **53A-11-1214.** Severability.

376 If any provision of this part or the application of any provision to any person or
377 circumstance, is held invalid, the remainder of this part shall be given effect without the invalid
378 provision or application.

379 Section 15. **Repealer.**

380 This bill repeals:

381 Section **53A-3-419, Limitations regarding access for student clubs and**
382 **organizations.**

Legislative Review Note
as of 1-31-06 12:44 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0097

Student Club Amendments

06-Feb-06

8:24 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal Impact

Office of the Legislative Fiscal Analyst