

Representative Eric K. Hutchings proposes the following substitute bill:

SCHOOL DISCIPLINE AND CONDUCT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the State System of Public Education relating to school discipline and conduct.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies that school discipline and conduct provisions relate to all public schools, including charter schools;
- ▶ provides that it is unlawful to engage in disruptive student behavior;
- ▶ provides for standards, procedures, and administrative penalties to address disruptive student behavior;
- ▶ provides for the issuance of:
 - a notice of disruptive student behavior; or
 - a habitual disruptive student behavior citation;
- ▶ provides that a school-age minor who receives a habitual disruptive behavior citation is subject to the jurisdiction of the juvenile court; and
- ▶ makes technical corrections.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53A-11-901**, as last amended by Chapter 97, Laws of Utah 1995

33 **53A-11-902**, as last amended by Chapter 97, Laws of Utah 1995

34 **53A-11-903**, as last amended by Chapter 10, Laws of Utah 2001, First Special Session

35 **53A-11-904**, as last amended by Chapter 203, Laws of Utah 2003

36 **53A-11-905**, as last amended by Chapter 97, Laws of Utah 1995

37 **53A-11-906**, as last amended by Chapter 318, Laws of Utah 1996

38 **53A-11-907**, as last amended by Chapter 318, Laws of Utah 1996

39 **53A-11-908**, as enacted by Chapter 240, Laws of Utah 1997

40 ENACTS:

41 **53A-11-910**, Utah Code Annotated 1953



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

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

45 **53A-11-901. Public school discipline policies -- Basis of the policies --**

46 **Enforcement.**

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

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

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

56 (i) to follow accepted rules of conduct; and

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

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

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

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

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

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

69 **53A-11-902. Conduct and discipline policies and procedures.**

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

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

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

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

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

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

81 (a) the school;

82 (b) school property;

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

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

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

87 (7) specific provisions for preventing and responding to gang-related activities in the

88 school, on school grounds, on school vehicles, or in connection with school-related activities or
89 events[-]; and

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

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

93 **53A-11-903. Suspension and expulsion procedures -- Notice to parents --**
94 **Distribution of policies.**

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

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

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

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

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

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

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

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

114 **53A-11-904. Grounds for suspension or expulsion from a public school.**

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

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

119 (b) willful destruction or defacing of school property;
120 (c) behavior or threatened behavior which poses an immediate and significant threat to
121 the welfare, safety, or morals of other students or school personnel or to the operation of the
122 school;

123 (d) possession, control, or use of an alcoholic beverage as defined in Section
124 32A-1-105; or

125 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the
126 school or school property, to a person associated with the school, or property associated with
127 that person, regardless of where it occurs.

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

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

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

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

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

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

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

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

149 (ii) the superintendent, chief administrator, or designee shall determine:

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

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

155 (C) if it would be in the best interest of both the school district or charter school, and
156 the student, to modify the expulsion term to less than a year, conditioned on approval by the
157 local school board or governing board of a charter school and giving highest priority to
158 providing a safe school environment for all students.

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

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

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

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

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

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

169 **53A-11-905. Delegation of authority to suspend or expel a student -- Procedure**
170 **for suspension -- Readmission.**

171 (1) (a) A local board of education may delegate to any school principal or assistant
172 principal within the school district the power to suspend a student in the principal's school for
173 up to ten school days.

174 (b) A governing board of a charter school may delegate to the chief administrative
175 officer of the charter school the power to suspend a student in the charter school for up to ten
176 school days.

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

180 (3) The board may expel a student for a fixed or indefinite period, provided that the

181 expulsion shall be reviewed by the district superintendent or the superintendent's designee and
182 the conclusions reported to the board, at least once each year.

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

- 185 (a) that the student has been suspended;
- 186 (b) the grounds for the suspension;
- 187 (c) the period of time for which the student is suspended; and
- 188 (d) the time and place for the parent or guardian to meet with a designated school
189 official to review the suspension.

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

194 (b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be
195 readmitted to a public school until:

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

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

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

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

205 **53A-11-906. Alternatives to suspension or expulsion.**

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

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

211 (b) alternatives to suspension, including policies that allow a student to remain in

212 school under an in-school suspension program or under a program allowing the parent or
213 guardian, with the consent of the student's teacher or teachers, to attend class with the student
214 for a period of time specified by a designated school official.

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

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

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

222 **53A-11-907. Student suspended or expelled -- Responsibility of parent or**
223 **guardian -- Application for students with disabilities.**

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

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

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

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

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

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

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

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

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

250 **53A-11-908. Extracurricular activities -- Prohibited conduct -- Reporting of**
251 **violations -- Limitation of liability.**

252 (1) The Legislature recognizes that:

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

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

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

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

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

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

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

274 location or circumstance, affecting a person or property described in Subsections

275 53A-11-902(5)(a) through (d):

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

277 (ii) illicit use, possession, or distribution of controlled substances or drug

278 paraphernalia, and the use, possession, or distribution of tobacco or alcoholic beverages

279 contrary to law; and

280 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including

281 behavior involving physical violence, restraint, improper touching, or inappropriate exposure

282 of body parts not normally exposed in public settings, forced ingestion of any substance, or any

283 act which would constitute a crime against a person or public order under Utah law.

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

285 have occurred shall immediately report that belief to the school principal [or], district

286 superintendent, or chief administrative officer of a charter school.

287 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the

288 alleged incident, and actions taken in response, to the district superintendent or the

289 superintendent's designee within ten working days after receipt of the report.

290 (c) Failure of a person holding a professional certificate to report as required under this

291 Subsection (3) constitutes an unprofessional practice.

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

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

294 **53A-11-910. Disruptive student behavior.**

295 (1) As used in this section:

296 (a) "Disruptive student behavior" includes:

297 (i) the grounds for suspension or expulsion described in Section 53A-11-904.

298 (ii) the conduct described in Subsection 53A-11-908(2)(b); and

299 (b) "Parent" includes:

300 (i) a custodial parent of a school-age minor;

301 (ii) a legally appointed guardian of a school-age minor; or

302 (iii) any other person purporting to exercise any authority over the minor which could

303 be exercised by a person described in Subsection (1)(b)(i) or (ii).

304 (c) "Qualifying minor" means a school-age minor who:

305 (i) is at least 12 years old; or
306 (ii) turns 12 years old at any time during the school year.
307 (d) "School year" means the period of time designated by a local school board or local
308 charter board as the school year for the school where the school-age minor is enrolled.
309 (2) A local school board, school district, governing board of a charter school, or charter
310 school may impose administrative penalties on a school-age minor who violates this part.
311 (3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.
312 (b) A qualifying minor is subject to the jurisdiction of the juvenile court if the
313 qualifying minor:
314 (i) engages in disruptive student behavior, that does not result in suspension or
315 expulsion, at least six times during the school year;
316 (ii) (A) engages in disruptive student behavior, that does not result in suspension or
317 expulsion, at least three times during the school year; and
318 (B) engages in disruptive student behavior, that results in suspension or expulsion, at
319 least once during the school year; or
320 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at
321 least twice during the school year.
322 (4) (a) A local school board or governing board of a charter school shall:
323 (i) authorize a school administrator or a designee of a school administrator to issue
324 notices of disruptive student behavior to qualifying minors; and
325 (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to
326 contest a notice of disruptive student behavior.
327 (b) A school representative shall, upon request, provide to a parent of a school-age
328 minor, a list of resources available to assist the parent in resolving the school-age minor's
329 disruptive student behavior problem.
330 (5) The notice of disruptive student behavior described in Subsection (4)(a):
331 (a) shall be issued to a qualifying minor who:
332 (i) engages in disruptive student behavior, that does not result in suspension or
333 expulsion, three times during the school year; or
334 (ii) engages in disruptive student behavior, that results in suspension or expulsion, once
335 during the school year;

336 (b) shall require that the qualifying minor and a parent of the qualifying minor:
337 (i) meet with school authorities to discuss the qualifying minor's disruptive student
338 behavior; and
339 (ii) cooperate with the local school board or governing board of a charter school in
340 correcting the school-age minor's disruptive student behavior;
341 (c) shall contain a statement indicating:
342 (i) the number of additional times that, if the qualifying minor engages in disruptive
343 student behavior that does not result in suspension or expulsion, will result in the qualifying
344 minor receiving a habitual disruptive student behavior citation; and
345 (ii) that the qualifying minor will receive a habitual disruptive student behavior citation
346 if the qualifying minor engages in disruptive student behavior that results in suspension or
347 expulsion; and
348 (d) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.
349 (6) A habitual disruptive student behavior citation:
350 (a) may only be issued to a qualifying minor who:
351 (i) engages in disruptive student behavior, that does not result in suspension or
352 expulsion, at least six times during the school year;
353 (ii) (A) engages in disruptive student behavior, that does not result in suspension or
354 expulsion, at least three times during the school year; and
355 (B) engages in disruptive student behavior, that results in suspension or expulsion, at
356 least once during the school year; or
357 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at
358 least twice during the school year.
359 (b) may only be issued by a school administrator, a designee of a school administrator,
360 or a truancy specialist, who is authorized by a local school board or governing board of a local
361 charter school to issue habitual disruptive student behavior citations.
362 (7) A qualifying minor to whom a habitual disruptive student behavior citation is
363 issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection
364 (3).
365 (8) Nothing in this part prohibits a local school board, school district, governing board
366 of a charter school, or charter school from taking any lawful action not in conflict with the

367 provisions of this section, including those described in this part, to address a disruptive student
368 behavior problem of:

369 (a) a school-age minor who is not a qualifying minor; or

370 (b) a qualifying minor, regardless of the number of times that the qualifying minor has
371 engaged in disruptive student behavior during the school year.