

Representative Carol Spackman Moss proposes the following substitute bill:

BULLYING AND HAZING

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Jon J. Greiner

LONG TITLE

General Description:

This bill amends Title 53A, State System of Public Education, to enact provisions, and require adoption of school policies, relating to bullying and hazing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits bullying or hazing, retaliation for reporting, or assisting in the investigation of, bullying or hazing, and making a false report of bullying or hazing;
- ▶ ~~requires and encourages the reporting of bullying, hazing, or retaliation;~~
- ▶ ~~provides immunity for the good faith reporting of bullying, hazing, or retaliation;~~
- ▶ requires local school boards and local charter boards to adopt a policy, on or before September 1, 2009, for reporting and responding to bullying, hazing, or retaliation;
- ▶ describes the minimum requirements for a policy described in the preceding paragraph;
- ▶ requires the State Board of Education to develop, on or before September 1, 2008, a model policy on bullying, hazing, or retaliation; and
- ▶ provides for training and education regarding, and the prevention of, bullying, hazing, or retaliation.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **53A-11a-101**, Utah Code Annotated 1953

33 **53A-11a-102**, Utah Code Annotated 1953

34 **53A-11a-201**, Utah Code Annotated 1953

35 **53A-11a-202**, Utah Code Annotated 1953

36 **53A-11a-301**, Utah Code Annotated 1953

37 **53A-11a-302**, Utah Code Annotated 1953

38 **53A-11a-401**, Utah Code Annotated 1953

39 **53A-11a-402**, Utah Code Annotated 1953

40 ~~§→ [—53A-11a-501, Utah Code Annotated 1953~~

41 ~~——53A-11a-502, Utah Code Annotated 1953] ←§~~



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

44 Section 1. Section **53A-11a-101** is enacted to read:

45 **CHAPTER 11a. BULLYING AND HAZING**

46 **Part 1. General Provisions**

47 **53A-11a-101. Title.**

48 This chapter is known as "Bullying and Hazing."

49 Section 2. Section **53A-11a-102** is enacted to read:

50 **53A-11a-102. Definitions.**

51 As used in this part:

52 (1) (a) "Bullying" means intentionally or knowingly committing an act that:

53 (i) (A) endangers the physical health or safety of a school employee or student;

54 (B) involves any brutality of a physical nature such as whipping, beating, branding,

55 calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or

56 exposure to the elements;

57 (C) involves consumption of any food, liquor, drug, or other substance;
58 (D) involves other physical activity that endangers the physical health and safety of a
59 school employee or student; or

60 (E) involves physically obstructing a school employee's or student's freedom to move;
61 and

62 (ii) is done for the purpose of placing a school employee or student in fear of:

63 (A) physical harm to the school employee or student; or

64 (B) harm to property of the school employee or student.

65 (b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of
66 whether the person against whom the conduct is committed directed, consented to, or
67 acquiesced in, the conduct.

68 (2) (a) "Hazing" means intentionally or knowingly committing an act that:

69 (i) (A) endangers the physical health or safety of a school employee or student;

70 (B) involves any brutality of a physical nature such as whipping, beating, branding,
71 calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or
72 exposure to the elements;

73 (C) involves consumption of any food, liquor, drug, or other substance;

74 (D) involves other physical activity that endangers the physical health and safety of a
75 school employee or student; or

76 (E) involves physically obstructing a school employee's or student's freedom to move;
77 and

78 (ii) (A) is done for the purpose of initiation or admission into, affiliation with, holding
79 office in, or as a condition for, membership or acceptance, or continued membership or
80 acceptance, in any school or school sponsored team, organization, program, or event; or

81 (B) if the person committing the act against a school employee or student knew that the
82 school employee or student is a member of, or candidate for, membership with a school, or
83 school sponsored team, organization, program, or event to which the person committing the act
84 belongs to or participates in.

85 (b) The conduct described in Subsection (2)(a) constitutes hazing, regardless of
86 whether the person against whom the conduct is committed directed, consented to, or
87 acquiesced in, the conduct.

88 (3) "Policy" means a bullying and hazing policy described in Section ~~§~~→ [53A-11a-401]
88a 53A-11a-301 ←~~§~~ .

89 (4) "Retaliate" means an act or communication intended:

90 (a) as retribution against a person for reporting bullying or hazing; or

91 (b) to improperly influence the investigation of, or the response to, a report of bullying
92 or hazing.

93 (5) "School" means any public elementary or secondary school or charter school.

94 (6) "School board" means:

95 (a) a local school board; or

96 (b) a local charter board.

97 (7) "School employee" means:

98 (a) school teachers;

99 (b) school staff;

100 (c) school administrators; and

101 (d) all others employed, directly or indirectly, by the school, school board, or school
102 district.

103 Section 3. Section 53A-11a-201 is enacted to read:

104 **Part 2. Prohibitions**

105 **53A-11a-201. Bullying and hazing prohibited.**

106 (1) No school employee or student may engage in bullying a school employee or
107 student:

108 (a) on school property;

109 (b) at a school related or sponsored event;

110 (c) on a school bus;

111 (d) at a school bus stop; or

112 (e) while the school employee or student is traveling to or from a location or event
113 described in Subsections (1)(a) through (d).

114 (2) No school employee or student may engage in hazing a school employee or student
115 at any time or in any location.

116 Section 4. Section 53A-11a-202 is enacted to read:

117 **53A-11a-202. Retaliation and ~~§~~→ making ←~~§~~ false ~~§~~→ [reporting] allegation ←~~§~~**
117a **prohibited.**

118 (1) No school employee or student may engage in retaliation against:

- 150 (i) students;
- 151 (ii) parents;
- 152 (iii) teachers;
- 153 (iv) school administrators;
- 154 (v) school staff; or
- 155 (vi) local law enforcement agencies;
- 156 (b) be implemented in an ongoing, consistent, and nondiscriminatory manner;
- 157 (c) be integrated with existing school discipline policies and violence prevention
- 158 efforts; and
- 159 (d) provide protection to a student, regardless of the student's legal status.
- 160 (3) The policy shall include the following components:
- 161 (a) definitions of bullying and hazing that, at a minimum, include the conduct
- 162 described in the definitions of bullying and hazing under Section 53A-11a-102;
- 163 (b) the prohibitions described in Part 2, Prohibitions;
- 164 (c) a description of the action that may be taken, and consequences or penalties that
- 165 may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school
- 166 employee or student for reporting bullying or hazing, which shall include:
- 167 (i) suspension; or
- 168 (ii) dissolution of a team, organization, or other group;
- 169 (d) procedures for protecting:
- 170 (i) a victim of bullying or hazing from being subjected to further bullying or hazing;
- 171 and
- 172 (ii) a school employee or student from retaliation for reporting bullying or hazing;
- 173 (e) procedures for promptly reporting to law enforcement all acts of bullying, hazing,
- 174 or retaliation that constitute criminal activity;
- 175 (f) procedures for promptly investigating and responding to reports of bullying, hazing,
- 176 or retaliation;
- 177 (g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;
- 178 (h) specification of the persons responsible for taking, investigating, and responding to
- 179 reports of bullying, hazing, or retaliation;
- 180 (i) a procedure for referring a victim of bullying or hazing to counseling;

181 (j) involving the parents or guardians of a perpetrator or victim of bullying, hazing, or
 182 retaliation in the process of responding to, and resolving, conduct prohibited by this chapter;

183 (k) to the extent permitted by federal and state law, including the federal Family
 184 Educational and Privacy Rights Act of 1974, as amended, a procedure informing the parents or
 185 guardians of a student who is a victim of bullying or hazing of the actions taken against the
 186 perpetrators of the bullying or hazing;

187 (l) procedures and plans for publicizing the policy to school employees, students, and
 188 parents and guardians of students; and

189 (m) procedures and plans for training school employees and students in recognizing ~~§~~ [;] and ~~§~~
 190 preventing ~~§~~ [; and reporting] ~~§~~ bullying, hazing, or retaliation.

191 (4) A copy of the policy shall be included in student conduct handbooks and employee
 192 handbooks.

193 (5) A policy may not permit formal disciplinary action that is based solely on an
 194 anonymous report of bullying, hazing, or retaliation.

195 (6) Nothing in this chapter is intended to infringe upon the right of a school employee
 196 or student to exercise their right of free speech.

197 Section ~~§~~ [8] 6 ~~§~~ . ~~§~~ [Section 53A-11a-402] **Section 53A-11a-302 ~~§~~** is enacted to read:

198 **~~§~~ [53A-11a-402] 53A-11a-302 ~~§~~ . Model policy.**

199 On or before September 1, 2008, the State Board of Education shall:

200 (1) develop a model policy on bullying, hazing, and retaliation, consistent with Section
 201 ~~§~~ [53A-11a-401] 53A-11a-301 ~~§~~ , in order to assist a school board in adopting a policy under Section
 202 ~~§~~ [53A-11a-401] 53A-11a-301 ~~§~~ ; and

203 (2) post the model policy described in Subsection (1) on the State Board of Education's
 204 website.

205 Section ~~§~~ [9] 7 ~~§~~ . ~~§~~ [Section 53A-11a-501] **Section 53A-11a-401 ~~§~~** is enacted to read:

206 **Part ~~§~~ [5] 4 ~~§~~ . Miscellaneous**

207 **~~§~~ [53A-11a-501] 53A-11a-401 ~~§~~ . Training, education, and prevention.**

208 (1) A school board shall include in the training of a school employee, training
 209 regarding bullying, hazing, and retaliation.

210 (2) To the extent that state or federal funding is available for this purpose, school
 211 boards are encouraged to implement programs or initiatives, in addition to the training

212 described in Subsection (1), to provide for training and education regarding, and the prevention
213 of, bullying, hazing, and retaliation.

214 (3) The programs or initiatives described in Subsection (2) may involve:

215 (a) the establishment of a bullying task force; or

216 (b) the involvement of school employees, students, or law enforcement.

217 Section ~~§~~ [10] 8 ~~←§~~ . Section ~~§~~ [~~53A-11a-502~~] 53A-11a-402 ~~←§~~ is enacted to read:

218 ~~§~~ [~~53A-11a-502~~] 53A-11a-402 ~~←§~~ . **Other forms of legal redress.**

219 (1) Nothing in this chapter prohibits a victim of bullying, hazing, or retaliation from

220 seeking legal redress under any other provisions of civil or criminal law.

221 (2) This section does not create or alter tort liability.

H.B. 325 1st Sub. (Buff) - Bullying and Hazing

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
