

BULLYING AND HAZING

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Jon J. Greiner

6	Cosponsors:	Gregory H. Hughes	LaWanna Lou Shurtliff
7	Sylvia S. Andersen	Merlynn T. Newbold	Kenneth W. Sumsion
8	Brad L. Dee	Patrick Painter	Mark A. Wheatley
9	James R. Gowans	Paul Ray	Carl Wimmer

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 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.

Monies Appropriated in this Bill:

None

Other Special Clauses:

31 None

32 **Utah Code Sections Affected:**

33 ENACTS:

34 **53A-11a-101**, Utah Code Annotated 1953

35 **53A-11a-102**, Utah Code Annotated 1953

36 **53A-11a-201**, Utah Code Annotated 1953

37 **53A-11a-202**, Utah Code Annotated 1953

38 **53A-11a-301**, Utah Code Annotated 1953

39 **53A-11a-302**, Utah Code Annotated 1953

40 **53A-11a-401**, Utah Code Annotated 1953

41 **53A-11a-402**, 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 exposure

56 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 exposure

72 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-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 allegation prohibited.**

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

119 (a) a school employee;

120 (b) a student; or

121 (c) an investigator for, or a witness of, an alleged incident of bullying, hazing, or
122 retaliation.

123 (2) No school employee or student may make a false allegation of bullying, hazing, or
124 retaliation against a school employee or student.

125 Section 5. Section **53A-11a-301** is enacted to read:

126 **Part 3. School Policy**

127 **53A-11a-301. Bullying and hazing policy.**

128 (1) On or before September 1, 2009, each school board shall adopt a bullying or hazing
129 policy.

130 (2) The policy shall:

131 (a) be developed only with input from:

132 (i) students;

133 (ii) parents;

134 (iii) teachers;

135 (iv) school administrators;

136 (v) school staff; or

137 (vi) local law enforcement agencies;

138 (b) be implemented in an ongoing, consistent, and nondiscriminatory manner;

139 (c) be integrated with existing school discipline policies and violence prevention efforts;

140 and

141 (d) provide protection to a student, regardless of the student's legal status.

142 (3) The policy shall include the following components:

143 (a) definitions of bullying and hazing that, at a minimum, include the conduct described
144 in the definitions of bullying and hazing under Section 53A-11a-102;

145 (b) the prohibitions described in Part 2, Prohibitions;

146 (c) a description of the action that may be taken, and consequences or penalties that
147 may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school
148 employee or student for reporting bullying or hazing, which shall include:

149 (i) suspension; or

150 (ii) dissolution of a team, organization, or other group;

151 (d) procedures for protecting:

152 (i) a victim of bullying or hazing from being subjected to further bullying or hazing; and

153 (ii) a school employee or student from retaliation for reporting bullying or hazing;

154 (e) procedures for promptly reporting to law enforcement all acts of bullying, hazing, or
155 retaliation that constitute criminal activity;

156 (f) procedures for promptly investigating and responding to reports of bullying, hazing,
157 or retaliation;

158 (g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;

159 (h) specification of the persons responsible for taking, investigating, and responding to
160 reports of bullying, hazing, or retaliation;

161 (i) a procedure for referring a victim of bullying or hazing to counseling;

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

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

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

170 (m) procedures and plans for training school employees and students in recognizing and

171 preventing bullying, hazing, or retaliation.

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

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

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

178 Section 6. Section **53A-11a-302** is enacted to read:

179 **53A-11a-302. Model policy.**

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

181 (1) develop a model policy on bullying, hazing, and retaliation, consistent with Section
182 53A-11a-301, in order to assist a school board in adopting a policy under Section 53A-11a-301;
183 and

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

186 Section 7. Section **53A-11a-401** is enacted to read:

187 **Part 4. Miscellaneous**

188 **53A-11a-401. Training, education, and prevention.**

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

191 (2) To the extent that state or federal funding is available for this purpose, school
192 boards are encouraged to implement programs or initiatives, in addition to the training described
193 in Subsection (1), to provide for training and education regarding, and the prevention of,
194 bullying, hazing, and retaliation.

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

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

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

198 Section 8. Section **53A-11a-402** is enacted to read:

199 **53A-11a-402. Other forms of legal redress.**

200 (1) Nothing in this chapter prohibits a victim of bullying, hazing, or retaliation from
201 seeking legal redress under any other provisions of civil or criminal law.

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