BULLYING AND HAZING
2008 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Carol Spackman Moss
Senate Sponsor: _____________

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, 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, 2008, 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 July 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
Be it enacted by the Legislature of the state of Utah:

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

CHAPTER 11a. BULLYING AND HAZING


53A-11a-101. Title.

This chapter is known as "Bullying and Hazing."

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


As used in this part:

(1) (a) "Bullying" means any conduct, course of conduct, or communication made in any manner, including electronic means, by a school employee or student that is:

(i) directed to, or relating to, a school employee or student; and

(ii) done with the intention of:

(A) placing the school employee or student in fear of harm to person or property;

(B) harassing, intimidating, threatening, or abusing the school employee or student;

(C) demeaning or embarrassing the school employee or student;
(D) creating a hostile educational or work environment for the school employee or
student; or

(E) encouraging, inciting, or coercing others to engage in conduct or communication
described in this Subsection (1)(a).

(b) A student or school employee is presumed to intend a result described in
Subsection (1)(a)(ii) if a reasonable person, under the circumstances, would expect the result.
(c) "Bullying" includes:
(i) retaliating against a school employee or student for reporting that a school employee
or student has engaged in bullying or hazing; or
(ii) knowingly making a false report of bullying or hazing.

(2) (a) "Hazing" means committing or causing another to commit an act that:
(i) (A) endangers the mental or physical health or safety of a school employee or
student;
(B) involves any brutality of a physical nature such as whipping, beating, branding,
calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or
exposure to the elements;
(C) involves consumption of any food, liquor, drug, or other substance;
(D) involves other physical activity that endangers the mental or physical health and
safety of a school employee or student;
(E) involves any activity that would subject a school employee or student to extreme
mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that
results in embarrassment, shame, or humiliation; or
(F) involves cruelty to any animal; and
(ii) (A) is done for the purpose of initiation or admission into, affiliation with, holding
office in, or as a condition for, membership or acceptance, or continued membership or
acceptance, in any school or school sponsored team, organization, program, or event; or
(B) if the person committing or causing another to commit the act against a school
employee or student knew that the school employee or student is a member of, or candidate for,
member of, or school sponsored team, organization, program, or event to which
the person committing or causing another to commit the act belongs or participates in, or did
belong or participated in, within the preceding two years.
(b) The conduct described in Subsection (2)(a) constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in the conduct.

(3) "Policy" means a bullying and hazing policy described in Section 53A-11a-401.

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

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

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

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

(6) "School board" means:

(a) a local school board; or

(b) a local charter board.

(7) "School employee" means:

(a) school teachers;

(b) school staff;

(c) school administrators;

(d) school volunteers;

(e) school agents; and

(f) all others employed, directly or indirectly, by the school, school board, or school district.

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

Part 2. Prohibitions

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

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

(a) on school property;

(b) at a school related or sponsored event;

(c) on a school bus;

(d) at a school bus stop; or

(e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).
(2) No school employee or student may engage in hazing a school employee or student at any time or location.

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


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

(a) a school employee;

(b) a student; or

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

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

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

Part 3. Reporting

53A-11a-301. Reporting of bullying, hazing, or retaliation required.

(1) A school employee who witnesses, or has reliable information regarding, an incident of bullying, hazing, or retaliation shall report the incident and information to the school official designated in the school’s policy.

(2) A student or parent who witnesses, or has reliable information regarding, an incident of bullying, hazing, or retaliation is encouraged to report the incident and information to the school official designated in the school's policy.

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


A school employee, student, or parent who reports an incident of, or information relating to, bullying, hazing, or retaliation, is immune from any liability, civil or criminal, that otherwise might result by reason of making the report, if the report is made:

(1) promptly;

(2) in good faith;

(3) to the school official designated in the school's policy; and

(4) in accordance with the school's policy.

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

Part 4. School Policy

53A-11a-401. Bullying and hazing policy.
(1) On or before September 1, 2008, each school board shall adopt a bullying and hazing policy.

(2) The policy shall:
   (a) be developed with input from:
       (i) students;
       (ii) parents;
       (iii) teachers;
       (iv) school administrators;
       (v) school staff;
       (vi) school volunteers;
       (vii) community representatives; and
       (viii) local law enforcement agencies;
   (b) be implemented in an ongoing, consistent, and nondiscriminatory manner;
   (c) be integrated with existing school discipline policies and violence prevention efforts; and
   (d) provide protection to students, regardless of a student's legal status.

(3) The policy shall, at a minimum, include the following components:
   (a) the definitions of bullying and hazing described in Section 53A-11a-102;
   (b) the prohibitions described in Part 2, Prohibitions;
   (c) a description of the action that may be taken, and consequences or penalties that may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school employee or student for reporting bullying or hazing, which shall include:
       (i) suspension; or
       (ii) dissolution of a team, organization, or other group;
   (d) procedures for protecting:
       (i) a victim of bullying or hazing from being subjected to further bullying or hazing;
       (ii) a school employee or student from retaliation for reporting bullying or hazing;
   (e) procedures for promptly reporting to law enforcement all acts of bullying, hazing, or retaliation that constitute criminal activity;
   (f) procedures for promptly investigating and responding to reports of bullying, hazing,
(g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;

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

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

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

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

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

(m) procedures and plans for training school employees and students in recognizing, preventing, and reporting bullying, hazing, or retaliation.

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

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

(6) Bullying, hazing, or retaliation, that is done or initiated, in whole or in part, by means of electronic communication or an electronic device, shall be a violation of the school policy, regardless of the time or location of:

(a) the communication; or

(b) the use of the electronic device.

(7) Nothing in this section prohibits the use of electronic communication or electronic devices by a school employee within the scope of:

(a) the school employee's employment; or

(b) an investigation of bullying, hazing, or retaliation.

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

53A-11a-402. Model policy.

On or before July 1, 2008, the State Board of Education shall:
(1) develop a model policy on bullying, hazing, or retaliation, consistent with Section 53A-11a-401, in order to assist a school board in adopting a policy under Section 53A-11a-401; and

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

Section 9. Section 53A-11a-501 is enacted to read:

Part 5. Miscellaneous


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

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

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

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

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

Section 10. Section 53A-11a-502 is enacted to read:

53A-11a-502. Other forms of legal redress.

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

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

H.B. 325 - Bullying and Hazing

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.

Office of the Legislative Fiscal Analyst