PREVENTING BULLYING AND HAZING IN ELEMENTARY
AND SECONDARY SCHOOLS

2011 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Ralph Okerlund
House Sponsor: Bill Wright

LONG TITLE

General Description:
This bill modifies Title 53A, Chapter 11a, Bullying and Hazing, by making legislative findings, amending definitions, requiring implementation of anti-bullying and hazing policies, and requiring reporting of incidents of bullying or other conduct to the State Board of Education.

Highlighted Provisions:
This bill:
• defines terms;
• prohibits students and school employees from engaging in:
  • bullying;
  • cyber-bullying;
  • harassment;
  • hazing;
  • retaliation; and
  • making false claims regarding the aforementioned conduct;
• requires schools, local school districts, and the State Board of Education to implement anti-bullying and hazing policies; and
• makes technical changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
Be it enacted by the Legislature of the state of Utah:
Section 1. Section 53A-11a-102 is amended to read:

As used in this [part] chapter:
(1) (a) "Bullying" means intentionally or knowingly committing an act that:
(i) (A) endangers the 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 physical health and safety of a
school employee or student; or
(E) involves physically obstructing a school employee's or student's freedom to move;
and
(ii) is done for the purpose of placing a school employee or student in fear of:
(A) physical harm to the school employee or student; or
(B) harm to property of the school employee or student.
(b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(2) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

(3) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

(4) "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

[2]

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

(i) (A) endangers the 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 physical health and safety of a school employee or student; or
    (E) involves physically obstructing a school employee's or student's freedom to move;

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 the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or
school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

(b) The conduct described in Subsection [(2)] (5)(a) constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

[(3)] (6) "Policy" means a bullying and hazing policy described in Section 53A-11a-301.

[(4)] (7) "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)] (8) "School" means any public elementary or secondary school or charter school.

[(6)] (9) "School board" means:

(a) a local school board; or

(b) a local charter board.

[(7)] (10) "School employee" means:

(a) school teachers;

(b) school staff;

(c) school administrators; and

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

Section 2. Section 53A-11a-201 is amended to read:

53A-11a-201. Bullying, cyber-bullying, harassment, hazing, sexual battery, and sexual exposure prohibited.

(1) No school employee or student may engage in bullying or harassing 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 or cyber-bullying a school employee or student at any time or in any location.

Section 3. Section 53A-11a-202 is amended to read:


(1) No school employee or student may engage in retaliation against:
(a) a school employee;
(b) a student; or
(c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, harassment, hazing, or retaliation.

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

Section 4. Section 53A-11a-301 is amended to read:

53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.

[(1) On or before September 1, 2009, each school board shall adopt a bullying and hazing policy:]

(1) On or before September 1, 2012, each school board shall adopt a bullying, cyber-bullying, harassment, and hazing policy consistent with this chapter.

(2) The policy shall:
(a) be developed only with input from:
(i) students;
(ii) parents;
(iii) teachers;
(iv) school administrators;
(v) school staff; or
(vi) local law enforcement agencies; and

[(b) be implemented in an ongoing, consistent, and nondiscriminatory manner;]
[(c) be integrated with existing school discipline policies and violence prevention
efforts; and]

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

(3) The policy shall include the following components:

(a) definitions of bullying [and hazing that, at a minimum, include the conduct
described in the definitions of bullying and hazing under Section 53A-11a-102],
cyber-bullying, harassment, and hazing that are consistent with this chapter;

[(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;
and]
[(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, or retaliation;]
[(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, hazing, or retaliation;]
[(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 and preventing bullying, hazing, or retaliation.]

(b) language prohibiting bullying, cyber-bullying, harassment, and hazing;

(c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this chapter; and

(d) language prohibiting making a false report of bullying, cyber-bullying, harassment, 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, cyber-bullying, harassment, hazing, or retaliation.

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

Section 5. Section 53A-11a-302 is amended to read:


On or before September 1, [2008] 2011, the State Board of Education shall:

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

(2) post the model policy described in Subsection (1) on the State Board of Education's
Section 6. Section 53A-11a-401 is amended to read:

(1) A school board shall include in the training of a school employee, training regarding bullying, cyber-bullying, harassment, hazing, and 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, and 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, or law enforcement.

Section 7. Section 53A-11a-402 is amended to read:

53A-11a-402. Other forms of legal redress.
(1) Nothing in this chapter prohibits a victim of bullying, cyber-bullying, harassment, 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.