

HB0434S01 compared with HB0434

~~{deleted text}~~ shows text that was in HB0434 but was deleted in HB0434S01.

inserted text shows text that was not in HB0434 but was inserted into HB0434S01.

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Representative Sandra Hollins proposes the following substitute bill:

PARENT AND STUDENT RIGHTS AND SCHOOL SAFETY

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sandra Hollins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends requirements for a local education agency (LEA) to address bullying incidents.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies that a school may share certain information regarding an incident of bullying, cyber-bullying, hazing, harassment, abusive conduct, or retaliation with a parent upon request;
- ▶ requires a school to provide regular communication updates to a parent regarding

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the implementation of an action plan to address an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;

- ▶ requires an LEA to designate an individual for bullying incident response and outlines the individual's duties;
- ▶ requires civil rights law training for LEA employees; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-9-601, as last amended by Laws of Utah 2019, Chapter 293

53G-9-602, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-603, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-604, as last amended by Laws of Utah 2019, Chapter 293

53G-9-605, as last amended by Laws of Utah 2019, Chapter 293

53G-9-606, as last amended by Laws of Utah 2022, Chapter 399

53G-9-607, as last amended by Laws of Utah 2020, Chapter 408

ENACTS:

53G-9-605.5, Utah Code Annotated 1953

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

Section 1. Section **53G-9-601** is amended to read:

53G-9-601. Definitions.

As used in this part:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

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(2) "Action plan" means a process to address an incident as described in Section 53G-9-605.5.

~~[(2)]~~ (3) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

- (a) causing physical or emotional harm to the school employee or student;
- (b) causing damage to the school employee's or student's property;
- (c) placing the school employee or student in reasonable fear of:
 - (i) harm to the school employee's or student's physical or emotional well-being; or
 - (ii) damage to the school employee's or student's property;
- (d) creating a hostile, threatening, humiliating, or abusive educational environment due

to:

- (i) the pervasiveness, persistence, or severity of the actions; ~~{f} or {f}~~
- (ii) a power differential between the bully and the target; ~~{f} or~~
~~{f} — (iii) discrimination, harassment, or racism; or~~
~~{f}~~ (e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

~~[(3)]~~ (4) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

~~[(4)]~~ (5) "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.

(6) "Discrimination" means the disparate treatment ~~{of}~~ by a school employee to another school employee or {a} student that
(a) is based on; interferes with the school employee's or student's ability to participate in or benefit from the services, activities, or opportunities offered by the school.

(7) "Harassment" means unwelcome conduct, including discrimination, that is derisive, demeaning, or disparaging in nature and is based on the {student's} students identification as part of any group protected {from discrimination} under {any of} the following federal laws:

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~~(i)a~~ ~~{Title}~~ Titles IV, VI, and VII of the Civil Rights Act of 1964;

~~(iii)b~~ Title IX of the Education Amendments of 1972;

~~(iii)c~~ Section 504 of the Rehabilitation Act of 1973; or

~~(iv)d~~ Title II of the Americans with Disabilities Act of 1990~~;~~ ~~and~~;

~~{~~ ~~(b) interferes with the school employee's or student's ability to participate in or benefit from the services, activities, or opportunities offered by the school.~~

~~(7) "Harassment" means a severe and pervasive communication or verbal conduct that interferes with a school employee's or a student's performance including a limitation to participation, access, or benefit from resources, services, activities, or opportunities.~~

~~{~~ ~~(5)~~ (8) (a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student 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, including 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, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or

(D) 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 subjects a school employee or student to extreme embarrassment, shame, or humiliation; and

(ii) (A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or

(B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

(b) The conduct described in Subsection ~~(5)(a)~~ ~~(8)~~ (7)(a) constitutes hazing,

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regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(9) "Incident" means an incident of bullying, cyber-bullying, hazing, ~~abusive conduct~~ harassment, or retaliation that is prohibited under this part.

~~(6)~~ (10) "LEA governing board" means a local school board or charter school governing board.

~~(7)~~ (11) "Policy" means an LEA governing board policy described in Section 53G-9-605.

~~(12) "Race" means any one of the groups that humans are divided into based on physical traits regarded as common among people of a shared ancestry.~~

~~(13) (a) "Racism" means exhibiting pre-judgment, bias, discrimination, hatred, or violence towards an individual or a group of individuals because of the individual's or group's origin or belonging, or not belonging, to a specific ethnic group or race.~~

~~(b) "Racism" includes systematic discrimination through a policy or practice that disproportionately impacts a particular ethnic group or race.~~

~~(8)~~ ~~(14)~~ 12 "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.

~~(9)~~ ~~(15)~~ 13 "School" means a public elementary or secondary school, including a charter school.

~~(10)~~ ~~(16)~~ 14 "School employee" means an individual working in the individual's official capacity as:

- (a) a school teacher;
- (b) a school staff member;
- (c) a school administrator; or
- (d) an individual:
 - (i) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and
 - (ii) who works on a school campus.

Section 2. Section **53G-9-602** is amended to read:

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53G-9-602. Bullying, hazing, and cyber-bullying prohibited.

(1) A school employee or student may not 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) A school employee or student may not engage in ~~[hazing or cyber-bullying]~~ cyber-bullying or hazing a school employee or student at any time or in any location.

Section 3. Section **53G-9-603** is amended to read:

53G-9-603. Retaliation and making a false allegation prohibited.

(1) A school employee or student may not 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, hazing, or retaliation.

(2) A school employee or student may not make a false allegation of bullying, cyber-bullying, hazing, harassment, abusive conduct, or retaliation against a school employee or student.

Section 4. Section **53G-9-604** is amended to read:

53G-9-604. Parental notification of certain incidents and threats required.

(1) A school shall:

- (a) notify a parent if the parent's student threatens ~~[to commit]~~ suicide; or
- (b) notify the parents of each student involved in an incident ~~[of bullying,~~

~~cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student]~~ and the action plan to address the incident.

(2) (a) ~~[If a school notifies a parent of an incident or threat required to be reported under Subsection (1), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.]~~ When a student threatens suicide or is involved in

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an incident, the school shall produce and maintain a record that:

- (i) verifies the school notified each parent in accordance with Subsection (1); and
- (ii) tracks implementation of the action plan addressing the incident, if applicable.

(b) [A school shall maintain a record described in Subsection (2)(a) in accordance with the requirements of:] Upon request from a parent whose student is the subject of a record described in Subsection (2)(a), the school shall share the record with the parent in accordance with the requirements of:

- (i) Title 53E, Chapter 9, Part 2, Student Privacy;
- (ii) Title 53E, Chapter 9, Part 3, Student Data Protection;
- (iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
- (iv) 34 C.F.R. Part 99.

[(3) A local school board or charter school governing board shall adopt a policy regarding the process for:]

[(a) notifying a parent as required in Subsection (1); and]

[(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (2).]

[(4)] (3) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (1).

[(5)] (4) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

- (i) has graduated from high school; and
- (ii) requests the record be expunged.

Section 5. Section **53G-9-605** is amended to read:

53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(1) ~~[On or before September 1, 2018, an LEA governing board shall update the LEA governing board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct]~~ An LEA governing board shall adopt a bullying, cyber-bullying, hazing, [harassment](#),

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abusive conduct, and retaliation policy.

(2) ~~[A policy]~~ ~~{ }~~ The LEA governing board shall:

(a) ~~[be developed only]~~ develop the policy ~~{ only }~~ with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

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

(3) ~~[A policy shall include the following components]~~ The LEA governing board shall include the following components in the policy:

(a) definitions of bullying, cyber-bullying, hazing, ~~[and]~~ harassment, abusive conduct, and retaliation that are consistent with this part;

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

(c) language prohibiting retaliation ~~[against an individual who reports conduct that is prohibited under this part]~~ as described in Section 53G-9-603;

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

(e) as required in Section 53G-9-604, ~~{ }~~ a process for parental notification of:

(i) a student's threat ~~[to commit]~~ of suicide; ~~[and]~~

(ii) an incident ~~[of bullying, cyber-bullying, hazing, abusive conduct, or retaliation]~~, involving the parent's student; and

(iii) implementation of the school's action plan to address the incident;

(f) a grievance process for a school employee who has experienced abusive conduct;

(g) ~~[an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation]~~ a requirement that the school or LEA create and implement an action plan for each incident in accordance with Section 53G-9-605.5; and

(h) a communication process by which the school or LEA regularly updates each parent of a student involved in an incident regarding implementation of an action plan, including:

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- (i) the outcome of the school's or LEA's investigation;
 - (ii) a discussion of safety considerations for the student who is the subject of the incident; and
 - (iii) an explanation of the school's or LEA's process for addressing the incident; and
 - ~~[(h)]~~ (i) a requirement for a signed statement annually, indicating that the individual signing the statement has received the LEA governing board's policy, from each:
 - (i) school employee;
 - (ii) student who is at least eight years old; and
 - (iii) parent of a student enrolled in the ~~[charter school or school district]~~ LEA.
 - (4) A copy of ~~[a]~~ the policy described in this section shall be:
 - (a) included in student conduct handbooks;
 - (b) included in employee handbooks; and
 - (c) provided to a parent of a student enrolled in the charter school or school district.
 - (5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, harassment, abusive conduct, or retaliation.
 - (6) Nothing in this part is intended to infringe upon the right of a school employee, parent, or student to exercise the right of free speech.
- Section 6. Section **53G-9-605.5** is enacted to read:
- 53G-9-605.5. Bullying incident action plan**
- (1) A school or LEA shall create an action plan for an incident.
 - (2) In an action plan, the school or LEA shall include:
 - (a) a communication plan designed to keep each parent updated on the implementation of the action plan;
 - (b) with respect to the student to whom the incident was directed and in direct coordination with the student's parent:
 - (i) a tailored response to the incident that addresses the student's needs;
 - (ii) supportive measures designed to preserve the student's access to educational services and opportunities; and
 - (iii) to the extent available, access to other resources the parent requests for the student;
- and

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(c) with respect to the student who caused the incident and in direct coordination with the student's parent:

(i) a range of tailored and appropriate consequences, making reasonable effort to preserve the student's access to educational services and activities;

(ii) a process to determine and provide any needed resources related to the underlying cause of the incident;

(iii) supportive measures designed to preserve the student's access to educational services and opportunities while protecting the safety and well-being of other students; and

(iv) a process to remove the student from school in an emergency situation, including a description of what constitutes an emergency.

(3) A school or LEA may not include in an action plan a requirement that the student to whom is the incident was directed change the student's:

(a) educational schedule or placement; or

(b) participation in a school sponsored sport, club, or activity.

(4) A school or LEA shall establish an appeals process for a student who causes an incident or the student's parent to appeal one or more of the consequences included in an action plan.

(5) If, after a school or LEA attempts to involve a parent in the development and implementation of an action plan, the parent chooses not to participate in the process, the school or LEA may develop and implement an action plan without the parent's involvement.

Section 7. Section **53G-9-606** is amended to read:

53G-9-606. Model policy and state board duties.

(1) ~~[On or before September 1, 2018, the]~~ The state board shall:

(a) ~~[update the state board's]~~ create a model policy on bullying, cyber-bullying, hazing, ~~+~~ harassment, abusive conduct, and retaliation ~~[to include abusive conduct]~~; and

(b) post the model policy described in Subsection (1)(a) on the state board's website.

(2) The state board shall require an LEA governing board to report annually to the state board on:

(a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);

(b) the LEA governing board's training of school employees relating to bullying,

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cyber-bullying, hazing, harassment, and retaliation described in Section 53G-9-607;

(c) the demographics of an individual who is subject to bullying, hazing, cyber-bullying, or retaliation subject to:

- (i) Title 53E, Chapter 9, Part 2, Student Privacy;
- (ii) Title 53E, Chapter 9, Part 3, Student Data Protection;
- (iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
- (iv) 34 C.F.R. Part 99; and
- (d) other information related to this part, as determined by the state board.

Section 8. Section **53G-9-607** is amended to read:

53G-9-607. Training, education, and prevention -- Standards.

(1) An LEA shall designate ~~an~~at least one individual at the LEA level who:

- (a) provides training to an individual described in Subsection (2);
- (b) oversees the implementation of an action plan;
- (c) for each incident, monitors implementation of the LEA's policy regarding a

communication process with a parent described in Section 53G-9-605;

(d) acts as the LEA liaison to the state board regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation; and

(e) assists a school with case-specific needs when the school is addressing an incident.

~~[(+)]~~ (2) (a) An LEA governing board shall include in the training of a school employee training regarding:

- (i) bullying, cyber-bullying, hazing, harassment, abusive conduct, and retaliation; and
- (ii) applicable civil rights laws.

(b) ~~[that]~~ An LEA governing board shall ensure the training described in Subsection (2)(a)~~[(that)]~~ meets the standards described in Subsection ~~[(4)]~~ (5).

~~[(b)]~~ (c) An LEA governing board may offer voluntary training to parents and students regarding ~~[abusive conduct]~~ bullying, cyber-bullying, hazing, harassment, abusive conduct, or retaliation.

~~[(2)]~~ (3) To the extent that state or federal funding is available for this purpose, LEA governing boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection ~~[(+)]~~ (2), to provide for training and education regarding, and the prevention of, bullying, cyber-bullying, hazing, harassment, abusive conduct, ~~[(+)]~~ and ~~[(+)]~~ or

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retaliation.

~~[(3)]~~ (4) The programs or initiatives described in Subsection ~~[(2)]~~ (3) may involve:

- (a) the establishment of a bullying task force; or
- (b) the involvement of school employees, students, or law enforcement.

~~[(4)]~~ (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for high quality training related to:

(a) bullying, cyber-bullying, hazing, harassment, abusive conduct, and retaliation~~[-]~~;
and

(b) applicable civil rights laws.