

HB0420S01 compared with HB0420

~~{deleted text}~~ shows text that was in HB0420 but was deleted in HB0420S01.

inserted text shows text that was not in HB0420 but was inserted into HB0420S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Matt MacPherson proposes the following substitute bill:

SCHOOL CODE OF CONDUCT PROTECTIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{codifies}~~ requires local education agencies to adopt a code of conduct ~~{for public educators}~~ and provides certain protections from retaliation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{provides}~~ requires each local education agency to adopt a code of conduct for staff members ~~{of the public school system;~~
- ▶ ~~requires reporting of violations of the code of conduct;~~
- ▶ ~~requires all staff members to receive training on the code of conduct};~~
- ▶ prohibits retaliation against a staff member that reports a violation of the code of conduct ~~{, and}~~ or takes other reasonable action to protect a student;

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- ▶ provides a process for a staff member to seek review of an adverse employment action that is taken in retaliation for compliance with the code of conduct~~{,}~~; and grants rulemaking authority to the State Board of Education to implement a process to review adverse actions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-11-601, Utah Code Annotated 1953

53G-11-602, Utah Code Annotated 1953

~~{ **53G-11-603**, Utah Code Annotated 1953~~

~~— **53G-11-604**, Utah Code Annotated 1953~~

~~— **53G-11-605**, Utah Code Annotated 1953~~

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

Section 1. Section **53G-11-601** is enacted to read:

Part 6. Public Education Code of Conduct

53G-11-601. Definitions.

As used in this part:

(1) "Adverse ~~employment~~ action" means an action that has a negative impact on a staff member's employment status or work environment, including:

(a) the discharge of the staff member;

(b) the demotion of the staff member; or

(c) any other form of retaliation against the staff member in the terms, privileges, or conditions of employment.

~~(2) (a) "Boundary violation" means crossing verbal, physical, emotional, or social lines that staff must maintain in order to ensure structure, security, and predictability in an educational environment.~~

~~(b) "Boundary violation" may include, depending on the circumstances:~~

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~~(i) isolated, one-on-one interactions with a student out of the line of sight of others;~~

~~(ii) meeting with a student in rooms with covered or blocked windows;~~

~~(iii) telling risqué jokes to, or in the presence of a student;~~

~~(iv) employing favoritism to a student;~~

~~(v) giving gifts to individual students;~~

~~(vi) staff member initiated frontal hugging or other uninvited touching;~~

~~(vii) photographing an individual student for a noneducational purpose or use;~~

~~(viii) engaging in inappropriate or unprofessional contact outside of educational program activities;~~

~~(ix) exchanging personal email or phone numbers with a student for a noneducational purpose or use;~~

~~(x) interacting privately with a student through social media, computer, or hand-held devices; or~~

~~(xi) discussing an employee's personal life or personal issues with a student.~~

~~(c) "Boundary violation" does not include:~~

~~(i) offering praise, encouragement, or acknowledgment;~~

~~(ii) offering rewards available to all who achieve;~~

~~(iii) asking permission to touch for necessary purposes;~~

~~(iv) giving a pat on the back or a shoulder;~~

~~(v) giving a side hug;~~

~~(vi) giving a handshake or high five;~~

~~(vii) offering warmth and kindness;~~

~~(viii) utilizing public social media alerts to groups of students and parents; or~~

~~(ix) contact permitted by an IEP or Section 504 accommodation plan;~~

~~(3) "Grooming" means befriending and establishing an emotional connection with a child or a child's family to lower the child's inhibitions for emotional, physical, or sexual abuse.~~

~~(4) "Sexual abuse" means the criminal conduct described; **"Code of conduct" means the same as that term is defined** in Subsection ~~{76-5-404.1(2), and includes, regardless of the gender of any participant any of the following actions with the intent to cause substantial emotional or bodily pain or arouse or gratify the sexual desire of any individual:~~~~

~~(a) touching the anus, buttocks, pubic area, or genitalia of a student;~~

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- ~~_____ (b) touching the breast of a female student; or~~
- ~~_____ (c) otherwise taking indecent liberties with a student with the intent to:~~
 - ~~_____ (i) cause substantial emotional or bodily pain; or~~
 - ~~_____ (ii) arouse or gratify the sexual desire of any individual.~~
- ~~_____ (5) "Sexual battery" means:~~
 - ~~_____ (a) the criminal conduct described in Section 76-9-702.1; or~~
 - ~~_____ (b) the intentional touching, whether or not through clothing, the anus, buttocks, or any part of the genitals of a student, or the breast of a female student, if the actor knows or should know the actor's conduct, under the circumstances, is likely to cause affront or alarm to the student being touched.~~
- ~~_____ (6) "Sexual conduct" means any sexual contact or communication between a staff member and a student including:~~
 - ~~_____ (a) sexual abuse;~~
 - ~~_____ (b) sexual battery; or~~
 - ~~_____ (c) a staff member and student sharing any sexually explicit or lewd communication, image, or photograph.~~
- ~~_____ (7) 63G-7-301(3).~~
 - (3) "Staff member" means an employee, contractor, or volunteer with unsupervised access to students.
 - (4) "Student" means:
 - (a) a child under 18 years old; or
 - (b) an individual over 18 years old if the individual is still enrolled in a public secondary school.

Section 2. Section **53G-11-602** is enacted to read:

53G-11-602. Code of conduct policy.

- ~~_____ (1) Staff members shall act in a manner that acknowledges and reflects their inherent positions of authority and influence over students.~~
- ~~_____ (2) Staff members shall recognize and maintain appropriate personal boundaries in teaching, supervising, and interacting with students, and shall avoid boundary violations, including behavior that could reasonably be considered grooming or lead to an appearance of impropriety.~~

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~~_____ (3) A staff member may not subject a student to any form of abuse including:~~

~~_____ (a) physical abuse;~~

~~_____ (b) verbal abuse;~~

~~_____ (c) sexual abuse; or~~

~~_____ (d) mental abuse.~~

~~_____ (4) A staff member shall not touch a student in a way that makes a reasonably objective student feel uncomfortable.~~

~~_____ (5) A staff member shall not engage in any sexual conduct toward or sexual relations with a student, including:~~

~~_____ (a) viewing with a student, or allowing a student to view, pornography or any other sexually explicit or inappropriate images or content, whether video, audio, print, text, or other format;~~

~~_____ (b) sexual battery; or~~

~~_____ (c) sexual assault.~~

~~_____ (6) Staff member communications with students, whether verbal or electronic, shall be professional and avoid boundary violations.~~

~~_____ (7) A staff member shall not provide gifts, special favors, or preferential treatment to a student or group of students.~~

~~_____ (8) A staff member shall not discriminate against a student on the basis of sex, religion, national origin, gender identity, sexual orientation, or any other prohibited class.~~

~~_____ (9) Staff member use of electronic devices and social media to communicate with students shall comply with LEA policy, be professional, pertain to school activities or classes, and comply with the Family Educational Rights and Privacy Act.~~

~~_____ (10) A staff member may not use or be under the influence of alcohol or illegal substances during work hours on school property or at school sponsored events while acting as a staff member.~~

~~_____ (11) A staff member may not use any form of tobacco or electronic cigarettes on school property or at school sponsored activities in an employment capacity.~~

~~_____ (12) A staff member shall cooperate in any investigation concerning allegations of actions, conduct, or communications that if proven, would violate this policy.~~

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~~(13) This policy recognizes that familial relationships between a staff member and a student may provide for exceptions to certain provisions of this policy.~~

~~(14) Conduct prohibited by this policy is considered a violation of this policy regardless of whether the student may have consented.~~

~~(15) A staff member found in violation of this policy shall be subject to disciplinary action.~~

~~Section 3. Section 53G-11-603 is enacted to read:~~

~~53G-11-603. Reporting:~~

~~(1) A staff member who has reason to believe there has been a violation of this policy shall immediately report such conduct to an appropriate supervisor or school administrator.~~

~~(2) A staff member who reports as described in Subsection (1);~~ **Requirement to implement a code of conduct -- Protection from retaliation -- Rulemaking.**

(1) In accordance with Subsection 63G-7-301(3), an LEA shall adopt and implement a code of conduct.

(2) The code of conduct shall include provisions regarding reporting violations of the code of conduct, including provisions to ensure that:

(a) a staff member may report confidentially;

~~(3) If a staff member has reason to believe a school administrator has violated this policy, the staff member shall immediately report the conduct to the administrator's supervisor.~~

~~(4) In addition to the obligation to report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services under Section 62A-4a-403:~~

~~(a) a staff member who has reasonable cause to believe that a student may have been physically or sexually abused by a school staff member shall immediately report the belief and all other relevant information to the school administrator, or to the LEA administration;~~

~~(b) a school administrator who has received a report or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by a staff member shall immediately inform the LEA administration of the reported abuse; and~~

~~(c) if the staff member suspected to have abused a student holds a professional educator license issued by the state board, the LEA administration shall immediately report that information to the Utah Professional Practices Advisory Commission.~~

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~~(5) A person who makes a report under this subsection in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.~~

~~(6) A staff member who has knowledge of suspected incidents of bullying shall immediately notify the students building administrator in compliance with the LEA's bullying policy.~~

~~(7) Failing to report suspected misconduct as required herein is a violation of this policy, the Utah educator standards, and in some instances, state law, and may result in disciplinary action.~~

~~(8) A}; and~~

(b) a staff member who knowingly submits a false report {under this section } is in violation of {this}the code of conduct and is subject to disciplinary action.

~~{ Section 4. Section 53G-11-604 is enacted to read:~~

~~53G-11-604. Code of conduct training.~~

~~(1) Within a staff member's first 10 days of employment with an LEA, the LEA shall ensure that the staff member receives training regarding this policy, and the staff member shall acknowledge in writing having received training and understanding the policy.~~

~~(2) Beginning with the 2024-25 school year, and each school year thereafter, an LEA shall ensure that each staff member employed by the LEA receives training regarding this policy before the first day on which students will be in attendance for the school year, and each staff member shall acknowledge in writing having received training and understanding the policy.~~

~~Section 5. Section 53G-11-605 is enacted to read:~~

~~53G-11-605. Protection from retaliation.~~

~~{ (1)3) An LEA may not take {an }adverse{ employment} action {against}toward a staff member {if:~~

~~(a) the staff member refuses}for:~~

(a) taking reasonable action to protect a student from harm due to a violation of the LEA's code of conduct;

(b) acting in good faith to comply with the LEA's code of conduct;

(c) failing to comply with {any action}an expectation or instruction that would cause the staff member {reasonably believes would}to violate {this part}the LEA's code of conduct;

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or

~~(b)(d)~~ (i) the staff member reports conduct as described in ~~this part~~ the LEA's code of conduct; and

(ii) the adverse ~~employment~~ action is based on the staff member's report.

~~(2)(a)4~~ ~~In accordance with Subsection (2)(b), a~~ A staff member claiming an adverse ~~employment~~ action is retaliation as described in this section may request a review of the adverse ~~employment action with:~~

~~(i) the LEA administration;~~

~~(ii) the local school board; or~~

~~(iii) the state board.~~

~~(b) A staff member may request review as described in Subsection (2)(a)~~ action with the relevant ~~body~~ entity that oversees or supervises the individual or ~~body~~ entity alleged to have taken the adverse ~~employment~~ action.

~~(3)5~~ (a) If a staff member requests review of an adverse ~~employment~~ action under Subsection (4), the ~~LEA, the local school board, or the state board~~ relevant entity shall conduct a review of the adverse action to determine whether the adverse ~~employment~~ action was retaliation against the staff member.

(b) If the ~~LEA, the local school board, or the state board~~ relevant entity under Subsection (4) determines that the adverse action was retaliation against the staff member, the ~~LEA, the local school board, or the state board may require the LEA~~ relevant entity shall require the individual or entity alleged to have taken the adverse action to:

(i) cease and desist any retaliatory action;

(ii) compensate the staff member for any lost wages or benefits due to retaliatory action, which compensation may not exceed reimbursement for, and payment of, lost wages and benefits to the staff member; or

(iii) do both ~~Subsections~~ Subsection (3)5 ~~(a) b~~ (i) and ~~(b) ii~~.

(c) If ~~an LEA,~~ the ~~local school board, or the state board~~ relevant entity determines that the adverse action was retaliation against the staff member, the individual or entity found to have taken adverse action in violation of this section is subject to disciplinary action.

(d) A staff member may appeal an entity's determination of an adverse action to that entity's supervisory entity.

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~~(4)~~6 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
the state board may adopt rules ~~as necessary,~~ to implement this section.

Section ~~6~~3. **Effective date.**

This bill takes effect on May 1, 2024.